

**JOURNAL
OF THE
SENATE**

SESSION OF 1997

VOLUME ONE

STATE OF NEW HAMPSHIRE



ORGANIZATIONAL DAY

December 4, 1996

The Clerk, Gloria Randlett, called the Senate to order at 10:30 a.m.

The prayer was offered by the Senate Guest Pastor, Father Demers.

With that introduction, I will be running for Senate President next year. It is my first visit here and if I say something that I am not supposed to, that is okay, we should get away with it once in a while. We don't on the turnpikes anymore. But I have been told by Senator Blaisdell to pray hard this morning because hard times are coming ahead. I don't believe that, you are all smiling, there must be something.

Ladies and gentlemen, Let us pray: Lord God, heavenly Father, I ask you to guide our leaders to know You first and to seek wisdom without which nothing happens. I pray for the senators who serve here in Concord and I ask Your blessing on each one of them and on their families. My prayers are to keep them from evil and to help them always see clearly. Help them to be just and fair in their dealings with their constituents, their fellow congress people and the other branches of government as far as Washington. May all of the members present here follow after the truth, reveal to them, that everyone who puts his or her trust in God, will definitely be safe. I pray for myself and for all of our people that we may be able to submit to every legitimate and just ordinance passed by our elected officials knowing that only through them in these matters is God's will made known. In Your name, Lord God, I come against all division and partisanship that creates confusion and stymies progress in the work of government, because You, God, are the author of peace not confusion, envy or strife. Thank You, Father, as I invoke Your name for our representatives here in government. Help them to not only represent us, but to represent You too. Amen.

Senator David Wheeler offered a second prayer:

On February 8, 1797, Abigail Adams wrote to her husband, John, occasion of his election as the second President of the United States:

You have this day to declare yourself head of a nation. "And now O Lord, my God, Thou hast made thy servant ruler over the people." Give unto him an understanding heart, that he may know how to go out and come in before this great people; that he may discern between good and bad. For who is able to judge this thy so great a people? Who is invested with the chief magistracy of a nation, though he wears not a crown, nor robes of royalty... though personally absent... my petitions to Heaven are

that "the things which make for peace may not be hidden from your eyes."...The justice and impartiality to your country, and with satisfaction to the great people, shall be the daily prayer of your ...Abigail Adams.

Let us pray: Lord, grant us understanding hearts that we may know how to come in and go out before our constituents! That we may discern between good and bad! God help us to discharge our duties with honor, justice and impartiality! Let the people of New Hampshire find peace and satisfaction in the decisions made in this chamber! Amen.

Senator Blaisdell led the Pledge of Allegiance.

The Clerk of the Senate, Gloria M. Randlett, called the Roll of the Senate for attendance.

There were 24 members present.

OATH OF OFFICE FOR SENATOR

At this time, on the first Wednesday in December, in the year of our Lord, one thousand nine hundred and ninety six, being the day prescribed by the constitution for the legislature of New Hampshire to assemble and the honorable Stephen Merrill, governor of the state of New Hampshire, having come into the Senate chamber, will now subscribe the oaths of office and witness the signing of the oath by each individual senator, and verify these are duly qualified as senators agreeably to the provisions of the constitution: Stephen Merrill, governor of the state of New Hampshire.

GOVERNOR STEPHEN MERRILL: Good morning to all of you on behalf of the Executive Council and Heather and me. This is a significant day for Heather and me, obviously, because this is the last time that I will be swearing in the new Senate and it is a significant day for you, because one of your own has become the governor of the state. There is not time for me to talk about all of you, nor would all of you want me to talk about all of you. I would like to say a word about a very special individual who is here. In all of the years that I have known him, Joe Delahunty has asked me only for one thing, and that is to do the very best that I can for the people of New Hampshire. To work as hard as I can and to do the right thing. For that, I want to publicly say, you're a great public servant, thank you, Joe.

On behalf of the Executive Council, I would like to swear in the honorable Senate:

District No. 1
District No. 2
District No. 3
District No. 4
District No. 5
District No. 6
District No. 7
District No. 8
District No. 9
District No. 10
District No. 11
District No. 12
District No. 13
District No. 14
District No. 15
District No. 16

Frederick W. King
Edward M. Gordon
Carl R. Johnson
Leo W. Fraser, Jr.
Jim Rubens
Caroline McCarley
Amy Patenaude
Allen Whipple
Sheila Roberge
Clesson J. Blaisdell
David K. Wheeler
James Squires
Debora B. Pignatelli
Gary R. Francoeur
Sylvia B. Larsen
Eleanor P. Podles

District No. 17	John S. Barnes
District No. 18	John A. King
District No. 19	Richard L. Russman
District No. 20	Richard Danaïs
District No. 21	Katherine Wheeler
District No. 22	Joseph L. Delahunty
District No. 23	Beverly A. Hollingworth
District No. 24	Burton J. Cohen

NOMINATIONS

Nominations for temporary presiding officer.

Senator Fraser nominated Senator Eleanor P. Podles for temporary presiding officer.

Further nominations.

Senator McCarley seconded the nomination.

Senator F. King moved that nominations for temporary presiding officer be closed.

Adopted.

Question is on electing Eleanor P. Podles for temporary presiding officer.

Adopted.

Senators Pignatelli and D. Wheeler escorted temporary presiding officer, Eleanor P. Podles to the rostrum.

Senator Podles the presiding officer asked for nominations for the president of the Senate.

Senator Barnes nominated Senator Joseph L. Delahunty, for the president of the Senate.

SENATOR BARNES: Good morning, it certainly has been a short and fun past two years. I welcome back some of you and welcome some of you for the first time to our great Senate body. It gives me great pleasure, as it did two years ago, to nominate Joseph Delahunty of Salem for his second term as president of the Senate. For the past two years, Senator Delahunty has guided this Senate in a fair and impartial manner. He gave each and every member a chance to play a role in our deliberations and to be heard during the process. Under his guidance, we accomplished many things and avoided the gridlock that can sometimes be set in legislative bodies. It could be a lesson to our friends in Washington. Joe also knows that the best way to get things done is by bringing people together. As our president for another two years, I know that he will continue to facilitate the discussion and compromise needed for us to be successful as an entire body. Joe Delahunty will also bring experience to this position. He understands the nuances and complexities of managing this body. At a time when there will be new leadership in the House and in the Executive branch, this experience will be a great benefit, not only to this body, but for our entire state. Few people have the temperament and personality to be a successful Senate President, but Joe is the exception. He has always been a voice of calm and reason when things get tough and he has never forgotten that we were elected to serve the people of this great state. I ask that you join with me in supporting Joe Delahunty as president of our Senate. He will be a leader that we can all be proud of. Thank you very much.

Senator J. King seconded the nomination.

SENATOR J. KING: I second the nomination for Joe Delahunty for president of the New Hampshire Senate. I agree with the prior senator that which he just said, my colleague, Senator Barnes. Everything that he said is true and I agree with him. I believe that all of the democrats, and by the way, we have three more this year, Joe, so watch out, but they agree with me also. In my six years that I have been working here in the Senate with Joe Delahunty, I have never met a finer person. I think that one of the nicest things that you can say about him is that he is fair. His door is and always has been open. You don't always come out happy, but you go in and he listens to you, just like the good father does sometimes to some people, he gives you his say and that is it. He is very friendly and very cooperative and always trying to help people out, "how is everything going," so without a doubt, we are very proud, the nine democrats, to go along and make it an unanimous vote for Joe Delahunty for the next Senate president. Thank you.

Senator Russman moved that nominations for president of the Senate be closed.

Adopted.

Question is on electing Joseph L. Delahunty for Senate president.

Adopted unanimously. V. V.

Senator Joseph L. Delahunty is elected the president of the Senate.

Senator Podles requested that Senators Patenaude and McCarley escort the President of the Senate Senator Joseph L. Delahunty, to the rostrum.

SENATE PRESIDENT, JOSEPH L. DELAHUNTY: I would like to thank you all again, for placing your confidence in me by electing me to serve another term as your Senate president. I look forward to working with each of you during the next two years and know that we will all work together to serve the interest of the people of our state. Since we adjourned last May, our state government has seen many changes. We have a number of new colleagues joining us here in the Senate, we have a new House speaker, we have new House leadership, we also have a new governor. As we begin to work together with each other, the House and the executive branch, we must remember to maintain our independence without being obstructionists. I know that we will all have our philosophical differences but we must not let those differences prevent us from doing the people's business. The next two years promise to be very challenging. First and foremost will be the creation and the adoption of the biennial operating budget. As we approach this task, we must strive to maintain essential services without placing any additional tax burdens on the residents of our state. At the same time, we must seek ways to encourage economic growth and expansion by eliminating unnecessary and burdensome laws, enhance our economic development initiatives and maintain our distinction as a business friendly state. Our future rests in our ability to build an economy that can provide our residents with opportunity and prosperity. Ensuring that we prepare ourselves for that future, should be our highest priority. Of course there will be hundreds of other issues and bills to consider, including a number of initiatives dealing with health care reform, education, utility restructuring and welfare reform. All that I ask is that we do not let these issues define us, but that we are given the chance to define them. I know that there is a lot of talent in this room and each of you possesses unique skills, talents and interests. In the next few days, I will be final-

izing the committee assignments for the next two years and these assignments will insure that each of you is given the opportunity to play an important role as we set the direction of our state for the next two years. Again, I thank you for electing me to serve another two years as president of the Senate and I expect that we will achieve many accomplishments in the next two years. With that out of the way, I would just like to have you know, that those of you who know me, and most of you do, this is very, very special to me for a lot of reasons. I think that some of you can figure them out, maybe some of you can't, but... I am very, very appreciative and I will work hard to see that you are all treated fairly. I will try to satisfy as many committee assignments as I can. I think that we are going to have some fun. Thank you very much.

INTRODUCTION OF GUESTS RESOLUTION

Senator Rubens offered the following resolution:

RESOLVED, that the secretary of state be requested to furnish the Senate with the official return of votes from the various senatorial districts.

Adopted.

The Honorable William M. Gardner, secretary of state, appeared and presented the return of votes for state Senators from the various senatorial districts, as returned to the secretary of state's office from the general election held on November 5, 1996.

COMMITTEE REPORT

The Select Committee to whom was referred the various returns of votes for the state Senators from the several districts, having attended to their duties and having examined the returns made to the secretary of state and the records in the office of said secretary, report that they filed the state of the vote returned from the several districts as follows:

First District

Frederick W. King, Sr., r	10,386
Kathryn Taylor, d	<u>7,826</u>
Plurality for King	2,560

Second District

Edward Gordon, r&d	18,450
--------------------	--------

Third District

Carl R. Johnson, r	14,190
Paul Henle, d	<u>10,548</u>
Plurality for Johnson	3,642

Fourth District

Leo W. Fraser, Jr., r	12,597
Angie Argiropolis, d	<u>6,170</u>
Plurality for Fraser	6,427

Fifth District

Jim Rubens, r&l	11,118
Elizabeth L. Crory, d	<u>9,610</u>
Plurality for Rubens	1,508

Sixth District

Caroline McCarley, d	9,450
Richard Green, r&l	<u>9,095</u>
Plurality for McCarley	355

Seventh District

Amy Patenaude, r&l	11,684
Richard P. Herman, d	<u>6,954</u>
Plurality for Patenaude	4,730

Eighth District

Allen L. Whipple, d	9,642
Beverly T. Rodeschin, r	<u>9,006</u>
Plurality for Whipple	636

Ninth District

Sheila Roberge, r	16,621
Greta Ann Moran, d	<u>8,017</u>
Plurality for Roberge	8,604

Tenth District

Clesson J. Blaisdell, d&r	16,511
---------------------------	--------

Eleventh District

David K. Wheeler, r,d&l	14,970
Douglas Shattuck, n.l.	<u>3,013</u>
Plurality for Wheeler	11,957

Twelfth District

James Squires, r	12,871
Mary Quellette, d	<u>8,006</u>
Plurality for Squires	4,865

Thirteenth District

Debora B. Pignatelli, d	10,691
-------------------------	--------

Fourteenth District

Gary R. Francoeur, r&d	14,633
James K. Wallack, l	<u>2,771</u>
Plurality for Franker	11,862

Fifteenth District

Sylvia B. Larsen, d	14,318
Kevin A. Avar, r	<u>7,041</u>
Plurality for Larsen	7,277

Sixteenth District

Eleanor P. Podles, r&d	18,940
------------------------	--------

Seventeenth District

John S. Barnes, Jr., r	10,996
Barbara Parker, d	<u>7,762</u>
Plurality for Barnes	3,234

Eighteenth District

John A. King, d	9,795
Mike Pelletier, r	<u>7,498</u>
Plurality for King	2,297

Nineteenth District

Richard L. Russman, r&d	15,873
-------------------------	--------

Twentieth District

Richard Danais, r&d	14,069
---------------------	--------

Twenty-First District

Katie W. Wheeler, d	12,121
Richard O. Wasson, r	<u>6,247</u>
Plurality for Wheeler	5,874

Twenty-Second District

Joseph L. Delahunty, r	14,272
Michael K. Garofalo, d	<u>7,016</u>
Plurality for Delahunty	7,256

Twenty-Third District

Beverly A. Hollingworth, d	12,491
John T. Dowd, r	<u>10,710</u>
Plurality for Hollingworth	1,781

Twenty-Fourth District

Burt Cohen, d	13,888
Lou Gargiulo, r	<u>7,365</u>
Plurality for Cohen	6,523

RESOLUTION

Senator Francoeur offered the following Resolution:

RESOLVED, that the returns from the several senatorial districts be referred to a select committee of three with instructions to examine and count the same and report to the Senate where any vacancies or contest exists and if so, in what senatorial district.

Adopted.

The chair appointed Senators: Johnson, Cohen and Gordon to examine the vote totals.

Recess.**Out of recess.****COMMITTEE REPORT**

The select committee to whom was referred the various return of votes for state Senators from the several districts, having attended to their duties and having examined the returns made to the secretary of state and the records in the office of said secretary, report that they find the state of the vote returned from the several districts to be correct.

Adopted.

NOMINATIONS

Senator Larsen placed the name of Gloria Randlett in nomination for Senate Clerk.

SENATOR LARSEN: I would like to place the name of Gloria Randlett for clerk of the Senate. Gloria Randlett has been clerk of the Senate since 1989. She has the distinction of being the first woman clerk of either House or Senate in the state's history. Prior to that, in 1980, Gloria was the assistant Senate clerk. She has attended to her duties with efficiency, integrity and honesty. I am happy to put in nomination, the name of Gloria Randlett as clerk of the Senate. As a resident of Pembroke, I am honored to represent her.

Senator Danaïs seconded the nomination.

Senator Hollingworth moved that the nominations be closed and that one vote be cast for Gloria Randlett as clerk of the New Hampshire Senate.

Adopted.

Gloria M. Randlett is elected clerk of the New Hampshire Senate.

Senator Podles moved to place the name of Lois Schmelzer in nomination for assistant clerk of the Senate.

SENATOR PODLES: I am pleased to nominate Lois Schmelzer as the assistant Senate clerk. Lois started with the Senate in 1987 as a committee secretary and was elected to the assistant clerk in 1990. Lois is not only a friend, she is my constituent and she certainly deserves another term. I am pleased to enter her name in nomination as assistant clerk.

Senator Whipple seconded the nomination.

Senator Roberge moved that the nominations be closed and that one vote be cast for Lois Schmelzer for assistant clerk of the New Hampshire Senate.

Adopted.

Lois E. Schmelzer is elected assistant clerk of the Senate.

Senator Gordon moved that the name of Henry Wilson be placed in nomination for sergeant-at-arms.

SENATOR GORDON: It is my great pleasure to nominate Henry Wilson as our sergeant-at-arms. Hank, as we have come to know him, was our recorder before being elected to his current position in 1994. He has done an admirable job. It is with great pleasure, that I nominate him to serve again as our sergeant-at-arms.

Senator Johnson seconded the motion.

Senator Larsen moved that the nominations be closed and that one ballot be cast for Henry Wilson, sergeant-at-arms.

Adopted.

Henry Wilson is elected sergeant-at-arms.

Senator F. King moved that the name of Emile Martineau be placed in nomination for door keeper.

SENATOR F. KING: It is my distinct pleasure to make the nomination of doorkeeper. Emile Martineau a native of Berlin and former sheriff of Coos county, has been our doorkeeper since 1985 and has served us well

in that capacity. He faithfully attends to his duties and keeps our coffee cups full and just as faithfully carries them out. It is my pleasure to place his name in nomination.

Senator Roberge seconded the motion.

Senator K. Wheeler moved that the nominations be closed and that one ballot be cast for Emile Martineau, doorkeeper.

Adopted.

Emile Martineau is elected Senate doorkeeper.

The President administered the oaths of office to the Senate clerk, assistant Clerk, sergeant-at-arms, and doorkeeper.

Senator Russman offered the following Resolution:

RESOLUTION

Let it be Resolved, that the Rules of the 1995-1996 session be adopted as the rules of the 1997-1998 session and further that these rules may be changed by majority vote for the next two legislative days.

Adopted.

RULES OF THE SENATE

1. Determination of quorum; correction of Journal.
2. Members, decorum of.
3. Members, conduct when speaking.
4. Members not to speak more than twice.
5. President shall recognize whom.
6. Questions of order, appeal.
7. Member, absenting himself.
8. Motions, order of preference.
9. Questions postponed indefinitely, not acted upon in same bien-nium.
10. Questions, when divided.
11. Objections to reading paper, how determined.
12. Roll Call, everyone must vote.
13. Galleries, clearing of.
14. Reconsideration, motion for.
15. Petitions, introduction of.
16. Bills, shall be numbered and expressed clearly.
17. Bills, introduction of
- 17-A (a) Bills, deadlines for drafting.
- 17-b Bills, deadlines for information.
- 17-c Final deadline.
18. Resolutions to be treated as bills.
19. Bills shall have three readings; progress of; time for second and third readings.
20. Bills, printing and distribution.
21. Bills amended only on second reading; filing of amendments.
22. Public hearings to be held and advertised.
23. Amended bills, printed, distributed and disposed of.
24. Appropriating money, to whom referred.
25. President to sign bills, etc.
26. Committees, appointment of.
27. Standing Committees.
28. Messages sent to House.
29. Messages, when received.

30. Voting; division of Senate.
31. Visitors to Senate.
32. Hours of meeting.
33. Rules of Senate, how suspended.
34. Rules of Senate, how rescinded.
35. Committee of the whole.
36. President may name member to chair.
37. Senate staff; composition and duties.
38. Senate staff; days of employment.
39. Committees, reports and meetings
40. Appeal, presiding officer ruling.
41. Motions, no substitution under color of amendment.
42. Conflict of interest.
43. Committee of Conference Reports.
44. Personal privilege.
45. Requisition Approval Requirements.
46. Fiscal notes, requirements.

SENATE RULES

1. The president, having taken the chair, shall determine a quorum to be present. Any erroneous entry in the daily journal shall be corrected no later than the third succeeding legislative day, and the permanent journal corrected one week after the permanent journal copy is placed in the hands of the Senate.
2. No member shall hold conversation with another while a member is speaking in debate.
3. Every member, wishing to speak, shall address the president and when he has finished shall, if having risen to speak, then sit down.
4. No member shall speak more than twice on the same question on the same day without leave of the Senate.
5. More than one member rising to speak at the same time, the president shall decide who shall speak first.
6. If any member transgresses the rules of the Senate, the president shall, or any member may, call him to order; in which case the member so called to order shall immediately cease and desist, and the Senate, if appealed to, shall decide the case. But if there is no appeal, the decision of the president shall be conclusive.
7. No member shall absent himself without permission from the Senate.
8. When any question is under debate, no motion shall be received but first, to adjourn; second, to lay upon the table; third, for the previous question; fourth, to postpone to a certain day; fifth, to commit; sixth, to amend; and seventh, to postpone indefinitely; which several motions shall have precedence in the order in which they are so arranged. Motions to adjourn, to lay upon the table, for the previous question, and to take from the table shall be decided without debate. Motions to postpone to a certain day shall be debatable both as to time and subject matter. No motion to postpone indefinitely, to postpone to a certain day, or to commit, being decided, shall be in order at the same stage of the bill or resolution, until after adjournment.
9. A question which is postponed indefinitely shall not be acted upon during the biennium except whenever two-thirds of the whole number of elected senators shall on division taken, vote in favor thereof.

Any bill which is indefinitely postponed shall not be reintroduced under cover of an amendment to the general appropriations (budget) bill. No motion to suspend this rule shall be permitted.

10. Any member may call for a division of the question when the sense will admit it. Unless otherwise specifically provided for, a majority of those present and voting shall be required to pass any vote.
11. When the reading of a paper or document is objected to by a member, the question shall be determined by a vote of the Senate; and without debate.
12. When the nays and yeas have been moved by a member and duly seconded by another member, each member present shall declare his assent or dissent to the question, unless for special reason he be excused by the Senate. The names of the persons so making the motion and the second shall be recorded in the journal. A member who is to be absent when the yeas and nays are required may pair his vote with another member, to be present or also to be absent, who intends to vote on the opposite side of the question. Pairs shall be permitted only if the yeas and nays are taken on such question. Both members shall file such pair in writing with the clerk before the question is put. In all cases of pairing, the vote of neither member shall be counted in determining the result of the roll call; but the clerk shall announce all pairs and enter them in the journal. The president shall determine the order of the roll call. No member shall be required to vote in any case where he was not present when the question was put.
13. In case of any disturbance or disorderly conduct in the gallery, the president shall have the power to order the same to be cleared. The chairman of the Committee of the Whole may restrict attendance to the duly elected senators.
14. No vote shall be reconsidered, unless the motion for reconsideration be made by a member who voted with the prevailing side, nor unless the notice of such motion be given to the Senate in open session prior to adjournment on the same day on which the vote was passed, or on the next day on which the Senate shall be in session within one half hour after the convening of the early session, and any such notice of reconsideration shall be effective for three legislative days only and thereafter shall be null and void.
- 14 (a) Reconsideration of any bills subject to a transfer date established by joint rules must be acted on or before the joint rule deadline, and thereafter shall be null and void.
15. Before any petition shall be received and read, a brief statement of the contents thereof shall be made by the member introducing the same.
16. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced in the Senate, shall be endorsed with the name of the Senator presenting them, and with the subject matter of the same. Every bill shall be marked on the first page "Senate Bill" and numbered serially; every joint resolution shall be marked "Senate Joint Resolution" and numbered serially; every concurrent resolution proposing a constitutional amendment shall be marked "Concurrent Resolution Proposing a Constitutional Amendment" and numbered serially; and every other concurrent resolution shall be marked "Senate Concurrent Resolution" and numbered serially, as each bill or resolution is introduced into the Senate.

17. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced into the Senate shall be delivered or caused to be delivered to the Office of Legislative Services, which in turn will submit it to the sponsor for his signature, and then to the Clerk by legislative services. If requested by the sponsor, a proposed bill, resolution or petition shall not be made public, except by the sponsor, until signed by the sponsor. During any adjournment the president may receive bills and resolutions for printing and for reference to committee, provided that no bill shall have a public hearing until it is formally introduced into the Senate printed and available for distribution. The president shall take up all bills and resolutions for introduction at the early session.

17-A (a) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill, unless a request by a member for drafting with complete information has been received not later than 5:00 PM June 30, 1995.

(b) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in legislative services by 5:00 p.m., on October 30, 1995.

(c) Notwithstanding the provisions of 17 (a), (b), and (c), a Senate bill, Senate joint resolutions, or Senate concurrent resolution may be accepted by legislative services for drafting and introduced into the Senate at any time prior to the deadline established by Joint Rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a two-thirds vote on the floor.

(d) No bill the subject matter of which has been indefinitely postponed or made inexpedient to legislate in the Senate in the first-year session shall be admitted into the second-year session whether as a bill, an amendment, a committee of conference report or in any other manner;

(e) Legislation returned from the non-originating body, with an amendment, shall not be re-referred to Committee but shall have one of the following recommendations: Concur, Nonconcur, Nonconcur and Request a Committee of Conference.

17-B Committees of Conference.

(a) Whenever there be any disagreement between the Senate and the House on the content of any bill or resolution, and whenever both bodies, voting separately, have agreed to establish a committee of conference, the president of the Senate shall appoint three members to the Senate conference committee on the bill and the speaker of the House shall appoint four members to the House conference committee. Exceptions: (1) the House committee of conference on the operating budget shall consist of five members; (2) the number of the members of the committees of conference on any bill may increase or decrease if the president and the speaker both agree. The two committees of conference on a bill shall meet jointly but vote separately while in conference. A unanimous vote by both committees of conference shall be necessary for an agreed report to the Senate and the House by the committees of conference.

(b) The first-named person from the body where the bill or resolution in disagreement originated shall have the authority to call the time and place for the first meeting of the committees of conference on said bill.

(c) The first-named person on a committee of conference shall be the chairman of that conference. The chairman of the committee of conference of the body where the bill or resolution in disagreement originated shall chair the joint meeting of the committees of conference.

(d) No action shall be taken in either body on any committee of conference report earlier than some subsequent day, after the report has been delivered to the seats or placed on a member's desk. A committee of conference may neither change the title of any bill submitted to it nor add amendments which are not germane to the subject matter of the bill as originally submitted to it.

(e) Conference committees on budget bills. The report of each committee of conference on either the general appropriation bill, or the capital improvements bill shall be printed in the journal or a supplement thereto of the appropriate body before action on said report is taken on the floor. Non-germane amendments, sections and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances. Notwithstanding the general provisions of paragraph (h) of this section, the conference committee on the general appropriations bill may propose new items for inclusion in said bill but no such item may be so included unless and until it shall have been returned to both the Senate and the House and adopted in identical form by a majority vote in each body.

(f) When both committees of conference on a concurrent resolution proposing an amendment to the constitution have agreed, the committee of conference from the body which acceded to a request for committees of conference shall file its report with the clerk of that body who shall print it in full in the journal or supplement of that body. The report shall be made a special order of business at the late session of a subsequent day. After said report has been adopted by the first body, a message shall be transmitted to the second body which shall then act upon the report of its committee of conference.

(g) A sponsor of any bill or joint resolution referred to committees of conference shall, upon his request, be granted a hearing before said committees prior to action thereon.

(h) No member of a committee of conference shall sign any report that contains non-germane amendments or subject matter that has been indefinitely postponed in either body. For the purposes of this rule, a non-germane amendment would be any subject matter not contained in either the House or the Senate version of the bill.

18. All resolutions which may require the signature of the governor shall be treated in the same manner as bills.

19. Every bill shall have three readings in the Senate previous to its passage. The first and second readings shall be by title only which may be accomplished by a conglomerate resolution, after which the bill shall be referred by the president to the appropriate committee and shall be printed as provided in Rule 20, unless otherwise ordered by the Senate. No bill after it has been read a second time shall have a third reading until after adjournment from the early session. The time assigned for the third reading of bills and resolutions shall be in the late session unless otherwise ordered by the Senate. The orders of the day for the reading of bills shall hold for every succeeding day until disposed of.

20. After every bill shall have been read a second time, and referred by the president to the appropriate committee, the clerk shall procure a sufficient number of copies, printed on paper of uniform size, for the use of the legislature, and cause the same to be distributed to the members, and when printed the bill shall be immediately delivered to the committee to which it shall have been referred. Bills received from the House shall be printed at the same stage of their procedure unless they have been printed in the House and copies distributed in the Senate, in which case any amendment made by the House shall be duplicated and distributed in the Senate.
21. No amendment shall be made but upon the second reading of a bill; and all amendments to bills and resolutions shall be in writing, with the name of the senator and the district he represents thereon. No amendment to any bill shall be proposed or allowed at any time or by any source, including a committee of conference, except it be germane. Amendments shall have been reviewed by the Office of Legislative Services for form, construction, statutory and chapter reference.
22. A hearing shall be held upon each bill referred to a committee, and notice of such hearing shall be advertised at least 5 days before hearing in the Senate Calendar.
- (a) All bills in the possession of committees shall be reported out with one of the following recommendations: ought to pass, ought to pass with amendment, inexpedient to legislate, or refer for interim study. refer for interim study shall be a committee report only in the second year.
- (b) any legislation creating a chapter study committee shall have membership limited to members of the General Court.
23. When a bill is reported favorably with an amendment, the report of the committee shall state the amendment, and then recite the section of the bill in full as amended. The amendment shall be printed in the calendar of the Journal on the date that the report is listed for action. If no action is taken on that day, then the amendment shall be printed on the day to which the bill has been referred. All bills reported shall be laid upon the table and shall not be finally acted upon until the following legislative day, and a list of such bills with the report thereon shall be published in the Journal for the day on which action shall be taken.
24. Every bill and joint resolution appropriating money, which has been referred to another committee and favorably accepted by the Senate, shall be committed to the **Finance Committee** for review. If any such bills have been referred jointly to the **Finance Committee** and another standing committee, the **Finance Committee** may report separately and a further public hearing may be held at the discretion of the **Finance Committee**. All bills appropriating money, which are referred directly to the **Finance Committee** shall have a hearing. Any bill which has been referred to another committee and favorably accepted by the Senate, which has an economic impact on the state may be referred to the Committee on Economic Development for review. The Committee on Economic Development may hold a further public hearing at the discretion of the committee.
25. All warrants, subpoenas and other processes issued by order of the Senate shall be under the hand and seal of the president attested by the clerk.

26. All committees of the Senate, including Senate members on committees of conference, shall consist of members of both parties as nearly equal as possible, provided that on all committees, both parties shall be represented. The president shall appoint the members of all committees, after consulting with the minority leader.
27. The standing committees of the Senate shall be as follows: **The Committee on Finance, Committee on Capital Budget, Committee on Ways & Means, Committee on Banks, Committee on Economic Development, Committee on Education, Committee on Environment, Committee on Executive Departments & Administration, Committee on Fish & Game & Recreation, Committee on Insurance, Committee on Interstate Cooperation, Committee on Judiciary, Committee on Public Affairs, Committee on Public Institutions, Health & Human Services, Committee on Rules & Enrolled Bills, and the Committee on Transportation.**
28. Messages shall be sent to the House of Representatives by the clerk of the Senate.
29. Messages from the governor or House of Representatives may be received at all times, except when the Senate is engaged in putting the question, in calling the yeas and nays, or in counting the ballots.
30. All questions shall be put by the president, and each member of the Senate shall signify his assent or dissent by answering yea or nay. If the president doubts, or a division is called for, the Senate shall divide. Those in the affirmative on the question shall first rise from their seats and stand until they be counted. The president shall rise and state the decision of the Senate.
31. No person except members of the executive, or members of the House of Representatives and its officers, shall be admitted to the floor of the Senate, except by the invitation of the president, or some member with his consent.
32. The Senate shall adjourn to meet on the subsequent legislative day for the early session at the time mentioned in the adjournment motion. The late session shall immediately follow the early session unless the Senate shall otherwise order.
33. No standing rule of the Senate shall be suspended unless two-thirds of the members present vote in favor thereof. This rule shall not apply to Senate Rule 9.
34. No rule shall be rescinded unless two days notice of the motion has been given and two-thirds of those present vote therefor.
35. The Senate may resolve itself into a Committee of the Whole at any time on motion made for that purpose; and in forming a Committee of the Whole, the president shall leave the chair, and appoint a chairperson to preside in committee.
36. The president when performing the duties of the chair may, at any time, name any member to perform the duties of the chair.
37. The staff of the Senate shall be comprised of a clerk, an assistant clerk, a sergeant-at-arms, and a doorkeeper who are to be elected by the Senate, and such other personnel as the president shall appoint. The president shall define the duties of all members of the Senate staff which are not fixed by statute or otherwise ordered by the Senate.

38. Each member of the staff of the Senate shall be available on call to carry out the work of the Senate.
39. The committees shall promptly consider and report on all matters referred to them. The president may authorize such committees having a heavy load of investigation, re-drafting, research or amendments to meet as needed on non-legislative days during the legislative session. The clerk of the Senate shall prepare a list by number, title and sponsor of all Senate bills and resolutions in committee which have not been acted upon within one week before the deadline established for the transfer of bills and resolutions from the Senate to the House of Representatives, and he/she shall distribute this list to every member of the Senate as soon as it is prepared.
40. Any appeal from the ruling of the presiding officer shall be decided by majority vote of the members present and voting.
41. No new motion shall be admitted under color of amendment as a substitute for the motion under debate.
42. In all instances every member shall act in conformance with the duly adopted Ethical Guidelines and Opinions of the New Hampshire General Court.
43. Action on the floor of a report of the Committee on Finance or a Committee of Conference on either the general appropriations (budget) bill or the capital budget bill, shall not be taken by the Senate, until said report has been available from the Senate clerk twenty-four hours in advance, in written form. Non-germane amendments and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances.
44. **PERSONAL PRIVILEGE:** A Senator may, as a matter of personal privilege, defend his/her position on a bill, his/her integrity, his/her record, or his/her conduct, against unfair or unwarranted criticism, or may speak of an issue which relates to his/her rights, privileges or conveniences as a Senator; provided, however, the matters raised under personal privilege shall not be subject to questioning, answer, or debate, by another Senator. Personal privilege remarks may be included in the daily journal if requested by the senator, and in the permanent journal by vote of the Senate. A senator may speak on other matters of his/her choosing and in such cases may be subject to questioning and/or answer according to the Rules of the Senate.
45. No officer or employee of the Senate during the session or any adjournment thereof shall purchase or contract for the purchase, pay or promise to pay any sum of money on behalf of the Senate or issue any requisition or manifest without the approval of the Senate President.
46. If a drafting request for a bill or resolution has been filed with the Office of Legislative Services requiring a fiscal note as provided in RSA 14:44-47, the substance or a draft of the proposal may be provided to the legislative budget assistant for preparation of the required fiscal note without the specific consent of the sponsor of the proposal, provided that the identity of the sponsor shall not be disclosed.

RESOLUTION

Senator Hollingworth offered the following Resolution:

RESOLVED, that the clerk of the Senate be authorized to provide during the session one daily or two weekly newspapers printed within the state or daily newspaper clips to the members and officers of the Senate.

Adopted.

HOUSE MESSAGE

The House of Representatives has organized and has elected its officers:
Speaker of the House: Representative Donna Sytek.

Clerk of the House: Karen Wadsworth.

Assistant Clerk of the House: Leo J. Callahan.

Sergeant-At-Arms: Robert Johnson.

HOUSE MESSAGE

The House of Representatives is organized and ready to meet with the honorable Senate in Joint Convention for the purpose of electing a state treasurer and a secretary of state.

RESOLUTION

Senator Squires moved that be it **RESOLVED**, to meet in joint convention for the purpose of electing the secretary of state, state treasurer and for canvassing votes for the governor and council.

Adopted.

In recess for Joint Convention.

Out of recess.

Senator K. Wheeler offered the following Resolution:

RESOLUTION**Salary and Mileage Payments to the Members of the Senate**

Resolved, that the salary of the members of the Senate be paid in one undivided sum as early as practical after adoption of this Resolution, and be it further Resolved, that mileage of members of the Senate be paid every two weeks during the session.

Adopted.

ANNOUNCEMENTS

Senator Danaïs moved that the Senate having organized and completed its business of the day, that we now adjourn until convening day, Wednesday, January 8, 1997 at 10:30 a.m.

Adopted.

LATE SESSION

Senator Whipple moved that the business of the day being completed, that the Senate now adjourn until Wednesday, January 8, 1997 at 10:30 a.m.

Adopted.

Adjournment.

January 8, 1997

CONVENING DAY

The Senate met at 10:30 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

The new tone over here seems to be one of bipartisanship and cooperation. If you can function in that vein throughout this session, it will be good news for the people who voted for you and, just as importantly, good news for the people who didn't. But be ever vigilant that you may avoid the seductive temptation to compromise on your principles just so that you can achieve harmony. A century and a half ago, Heinrich Heine wrote: "People in the old times had convictions; we moderns only have opinions. And it needs more than mere opinion to erect a gothic cathedral."

Lord of all, be Lord even here - and fill these twenty-four with courage and conviction, with passion and principle, with hope and harmony, that for their own joy, for our own good and for Your own glory, that may each day be architects of political proficiency. Amen.

Senator F. King led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

AMENDMENT TO SENATE RULES

Senator Fraser offered the following amendment as approved by the Senate Rules Committee:

The Standing Committees of the Senate shall be as follows: Committee on Banks, Committee on Capital Budget, Committee on Finance, Committee on Economic Development, Committee on Education, Committee on Environment, Committee on Executive Departments and Administration, Committee on Insurance, Committee on Internal Affairs, Committee on Interstate Cooperation, Committee on Judiciary, Committee on Public Affairs, Committee on Public Institutions Health and Human Services, Committee on Rules and Enrolled Bills, and the Committee Transportation. Committee on Ways and Means, Committee on Wildlife and Recreation,

Adopted by the majority.

SENATE RULES DEADLINES PROPOSAL:

Senator Barnes offered the following Rules proposal:

December 18, 1996 - Last day to propose LSR and information to legislative services.

January 3, 1997 - Last day to sign off legislation.

January 10, 1997 - Last day to sign off late drafted legislation.

Adopted by the majority.

NOMINATIONS

Nominations for Assistant Senate Clerk.

SENATOR BARNES: I rise to nominate Tammy Wright for the assistant senate clerk. Tammy started working in the Senate on December 1, 1989 as an office aide. Tammy had to learn all aspects of the process and all the jobs of the office to fill in where needed. In November of 1990 she was promoted to calendar clerk and has done that job ever since.

SENATOR J. KING: I rise to second Senator Barnes motion to nominate Tammy. She has done a good job in the past and we look forward to the same good job in the future. Our great respects going to Lois Schmelzer who is leaving us.

SENATOR BARNES: Lois is leaving the Senate, but not the State House. So don't get confused, she is still going to be around and we will still see her. She has taken another position with Governor Shaheen. Nice work.

PRESIDENT DELAHUNTY: I think that before we take the vote, I probably should have announced it first, but Governor Shaheen has tapped another one of our outstanding resources, this time it is very close to the Senate. As Governor Shaheen is very capable of doing, she has done an excellent job in making an excellent selection, and I would like to have you all just give Lois a big hand for the excellent job that she has done here in the Senate. Lois, we are going to miss you; you have done an outstanding job. Thank you very much. We wish you a lot of luck in your new position. I am sure that we will be hearing from you.

SENATOR BARNES: May we put a rule in to prevent Governor Shaheen from doing any more of this, taking our staff? Enough is enough.

SENATOR BLAISDELL: Can we wait one more week, Jack?

SENATOR BARNES: Enough is enough.

Senator Russman moved that the nominations be closed and that one vote be cast for Tammy L. Wright for assistant clerk of the New Hampshire Senate.

Adopted.

Tammy L. Wright is elected Assistant Clerk of the Senate.

The President of the Senate subscribed the oath of office to the newly elected Assistant Clerk of the Senate.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives is ready to meet with the Honorable Senate in Joint Convention for the purpose of canvassing the votes for governor and Executive council.

RESOLUTION

Senator Barnes offered the following Resolution:

Be it RESOLVED, to meet in Joint Convention for the purpose of canvassing the votes for Governor and Executive Council.

Adopted.

In recess for the purpose of Joint Convention.

Out of recess.

RESOLUTION

Senator Barnes offered the Rules as amended by the Rules Committee.

1997-1998

17-A (a) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill, unless a request by a member for drafting with complete information has been received not later than 5:00 pm **Wednesday, December 18, 1996**

(b) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m., on **Friday, Janu-**

ary 3, 1997 with the exception of late drafted bills having to wait for fiscal notes or department information having a signoff deadline of 5:00 p.m., Friday, January 10, 1997.

(c) Notwithstanding the provisions of 17 (a), and (b), a Senate bill, Senate joint resolutions, or Senate concurrent resolution may be accepted by Legislative Services for drafting and introduced into the Senate at any time prior to the deadline established by Joint Rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a two-thirds vote on the floor.

(e) Legislation returned from the non-originating body, with an amendment, shall not be re-referred to Committee but shall have one of the following recommendations: Concur, Nonconcur, Nonconcur and Request a Committee of Conference.

RULES OF THE SENATE

1. Determination of quorum; correction of journal.
2. Members, decorum of.
3. Members, conduct when speaking.
4. Members not to speak more than twice.
5. President shall recognize whom.
6. Questions of order, appeal.
7. Member, absenting himself.
8. Motions, order of preference.
9. Questions postponed indefinitely, not acted upon in same biennium.
10. Questions, when divided.
11. Objections to reading paper, how determined.
12. Roll Call, everyone must vote.
13. Galleries, clearing of.
14. Reconsideration, motion for.
15. Petitions, introduction of.
16. Bills, shall be numbered and expressed clearly.
17. Bills, introduction of.
- 17-A (a) Bills, deadlines for drafting.
- 17-b Bills, deadlines for information.
- 17-c Final deadline.
18. Resolutions to be treated as bills.
19. Bills shall have three readings; progress of; time for second and third readings.
20. Bills, printing and distribution.
21. Bills amended only on second reading; filing of amendments.
22. Public hearings to be held and advertised.
23. Amended bills, printed, distributed and disposed of.
24. Appropriating money, to whom referred.
25. President to sign bills, etc.
26. Committees, appointment of.
27. Standing committees.
28. Messages sent to House.
29. Messages, when received.
30. Voting; division of Senate.
31. Visitors to Senate.
32. Hours of meeting.
33. Rules of Senate, how suspended.
34. Rules of Senate, how rescinded.
35. Committee of the whole.

36. President may name member to chair.
37. Senate staff; composition and duties.
38. Senate staff; days of employment.
39. Committees, reports and meetings
40. Appeal, presiding officer ruling.
41. Motions, no substitution under color of amendment.
42. Conflict of interest.
43. Committee of Conference reports.
44. Personal privilege.
45. Requisition approval required.
46. Fiscal notes, requirements.

SENATE RULES

1. The president, having taken the chair, shall determine a quorum to be present. Any erroneous entry in the daily journal shall be corrected no later than the third succeeding legislative day, and the permanent journal corrected one week after the permanent journal copy is placed in the hands of the Senate.
2. No member shall hold conversation with another while a member is speaking in debate.
3. Every member, wishing to speak, shall address the president and when he has finished shall, if having risen to speak, then sit down.
4. No member shall speak more than twice on the same question on the same day without leave of the Senate.
5. More than one member rising to speak at the same time, the president shall decide who shall speak first.
6. If any member transgresses the rules of the Senate, the president shall, or any member may, call him to order; in which case the member so called to order shall immediately cease and desist, and the Senate, if appealed to, shall decide the case. But if there is no appeal, the decision of the president shall be conclusive.
7. No member shall absent himself without permission from the Senate.
8. When any question is under debate, no motion shall be received but first, to adjourn; second, to lay upon the table; third, for the previous question; fourth, to postpone to a certain day; fifth, to commit; sixth, to amend; and seventh, to postpone indefinitely; which several motions shall have precedence in the order in which they are so arranged. Motions to adjourn, to lay upon the table, for the previous question, and to take from the table shall be decided without debate. Motions to postpone to a certain day shall be debatable both as to time and subject matter. No motion to postpone indefinitely, to postpone to a certain day, or to commit, being decided, shall be in order at the same stage of the bill or resolution, until after adjournment.
9. A question which is postponed indefinitely shall not be acted upon during the biennium except whenever two-thirds of the whole number of elected senators shall on division taken, vote in favor thereof. Any bill which is indefinitely postponed shall not be re-introduced under cover of an amendment to the general appropriations (budget) bill. No motion to suspend this rule shall be permitted.

10. Any member may call for a division of the question when the sense will admit it. Unless otherwise specifically provided for, a majority of those present and voting shall be required to pass any vote.
11. When the reading of a paper or document is objected to by a member, the question shall be determined by a vote of the Senate; and without debate.
12. When the nays and yeas have been moved by a member and duly seconded by another member, each member present shall declare his assent or dissent to the question, unless for special reason he be excused by the Senate. The names of the persons so making the motion and the second shall be recorded in the journal. A member who is to be absent when the yeas and nays are required may pair his vote with another member, to be present or also to be absent, who intends to vote on the opposite side of the question. Pairs shall be permitted only if the yeas and nays are taken on such question. Both members shall file such pair in writing with the clerk before the question is put. In all cases of pairing, the vote of neither member shall be counted in determining the result of the roll call; but the clerk shall announce all pairs and enter them in the journal. The president shall determine the order of the roll call. No member shall be required to vote in any case where he was not present when the question was put.
13. In case of any disturbance or disorderly conduct in the gallery, the president shall have the power to order the same to be cleared. The chairman of the Committee of the Whole may restrict attendance to the duly elected senators.
14. No vote shall be reconsidered, unless the motion for reconsideration be made by a member who voted with the prevailing side, nor unless the notice of such motion be given to the Senate in open session prior to adjournment on the same day on which the vote as passed, or on the next day on which the Senate shall be in session within one half hour after the convening of the early session, and any such notice of reconsideration shall be effective for three legislative days only and thereafter shall be null and void.
- 14 (a) Reconsideration of any bills subject to a transfer date established by joint rules must be acted on or before the joint rule deadline, and thereafter shall be null and void.
15. Before any petition shall be received and read, a brief statement of the contents thereof shall be made by the member introducing the same.
16. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced in the Senate, shall be endorsed with the name of the Senator presenting them, and with the subject matter of the same. Every bill shall be marked on the first page "Senate Bill" and numbered serially; every joint resolution shall be marked "Senate Joint Resolution" and numbered serially; every concurrent resolution proposing a constitutional amendment shall be marked "Concurrent Resolution Proposing a Constitutional Amendment" and numbered serially; and every other concurrent resolution shall be marked "Senate Concurrent Resolution" and numbered serially, as each bill or resolution is introduced into the Senate.

17. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced into the Senate shall be delivered or caused to be delivered to the Office of Legislative Services, which in turn will submit it to the sponsor for his signature, and then to the clerk by legislative services. If requested by the sponsor, a proposed bill, resolution or petition shall not be made public, except by the sponsor, until signed by the sponsor. During any adjournment the president may receive bills and resolutions for printing and for reference to committee, provided that no bill shall have a public hearing until it is formally introduced into the Senate printed and available for distribution. The president shall take up all bills and resolutions for introduction at the early session.

17-A (a) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill, unless a request by a member for drafting with complete information has been received not later than 5:00 pm ***Wednesday December 18, 1996***

b) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m., on Friday, ***January 3, 1997 with the exception of late drafted bills having to wait for fiscal notes or department information having a signoff deadline of 5:00 p.m., Friday, January 10, 1997.***

(c) Notwithstanding the provisions of 17 (a), (b), and (c), a Senate bill, Senate joint resolutions, or Senate concurrent resolution may be accepted by Legislative Services for drafting and introduced into the Senate at any time prior to the deadline established by joint rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a two-thirds vote on the floor.

(d) No bill the subject matter of which has been indefinitely postponed or made inexpedient to legislate in the Senate in the first-year session shall be admitted into the second-year session whether as a bill, an amendment, a committee of conference report or in any other manner;

(e) Legislation returned from the non-originating body, with an amendment, shall not be re-referred to committee but shall have one of the following recommendations: Concur, Nonconcur, Nonconcur and Request a Committee of Conference.

17-B Committees of Conference.

(a) Whenever there be any disagreement between the Senate and the House on the content of any bill or resolution, and whenever both bodies, voting separately, have agreed to establish a committee of conference, the president of the Senate shall appoint three members to the Senate conference committee on the bill and the speaker of the House shall appoint four members to the House conference committee. Exceptions: (1) the House committee of conference on the operating budget shall consist of five members; (2) the number of the members of the committees of conference on any bill may increase or decrease if the president and the speaker both agree. The two committees of conference on a bill shall meet jointly but vote separately while in conference. A unanimous vote by both committees of conference shall be necessary for an agreed report to the Senate and the House by the committees of conference.

(b) The first-named person from the body where the bill or resolution in disagreement originated shall have the authority to call the time and place for the first meeting of the committees of conference on said bill.

(c) The first-named person on a committee of conference shall be the chairman of that conference. The chairman of the committee of conference of the body where the bill or resolution in disagreement originated shall chair the joint meeting of the committees of conference.

(d) No action shall be taken in either body on any committee of conference report earlier than some subsequent day, after the report has been delivered to the seats or placed on a member's desk. A committee of conference may neither change the title of any bill submitted to it nor add amendments which are not germane to the subject matter of the bill as originally submitted to it.

(e) Conference Committees on Budget Bills. The report of each committee of conference on either the general appropriation bill, or the capital improvements bill shall be printed in the journal or a supplement thereto of the appropriate body before action on said report is taken on the floor. Non-germane amendments, sections and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances. Notwithstanding the general provisions of paragraph (h) of this section, the conference committee on the general appropriations bill may propose new items for inclusion in said bill but no such item may be so included unless and until it shall have been returned to both the Senate and the House and adopted in identical form by a majority vote in each body.

(f) When both committees of conference on a concurrent resolution proposing an amendment to the constitution have agreed, the committee of conference from the body which acceded to a request for committees of conference shall file its report with the clerk of that body who shall print it in full in the journal or supplement of that body. The report shall be made a special order of business at the late session of a subsequent day. After said report has been adopted by the first body, a message shall be transmitted to the second body which shall then act upon the report of its committee of conference.

(g) A sponsor of any bill or joint resolution referred to committees of conference shall, upon his request, be granted a hearing before said committees prior to action thereon.

(h) No member of a committee of conference shall sign any report that contains non-germane amendments or subject matter that has been indefinitely postponed in either body. For the purposes of this rule, a non-germane amendment would be any subject matter not contained in either the House or the Senate version of the bill.

18. All resolutions which may require the signature of the governor shall be treated in the same manner as bills.

19. Every bill shall have three readings in the Senate previous to its passage. The first and second readings shall be by title only which may be accomplished by a conglomerate resolution, after which the bill shall be referred by the president to the appropriate commit-

tee and shall be printed as provided in Rule 20, unless otherwise ordered by the Senate. No bill after it has been read a second time shall have a third reading until after adjournment from the early session. The time assigned for the third reading of bills and resolutions shall be in the late session unless otherwise ordered by the Senate. The orders of the day for the reading of bills shall hold for every succeeding day until disposed of.

20. After every bill shall have been read a second time, and referred by the president to the appropriate committee, the clerk shall procure a sufficient number of copies, printed on paper of uniform size, for the use of the legislature, and cause the same to be distributed to the members, and when printed the bill shall be immediately delivered to the committee to which it shall have been referred. Bills received from the House shall be printed at the same stage of their procedure unless they have been printed in the House and copies distributed in the Senate, in which case any amendment made by the House shall be duplicated and distributed in the Senate.
21. No amendment shall be made but upon the second reading of a bill; and all amendments to bills and resolutions shall be in writing, with the name of the senator and the district he represents thereon. No amendment to any bill shall be proposed or allowed at any time or by any source, including a committee of conference, except it be germane. Amendments shall have been reviewed by the Office of Legislative Services for form, construction, statutory and chapter reference.
22. A hearing shall be held upon each bill referred to a committee, and notice of such hearing shall be advertised at least five days before hearing in the Senate Calendar.

 - (a) All bills in the possession of committees shall be reported out with one of the following recommendations: ought to pass, ought to pass with amendment, inexpedient to legislate, or refer for interim study. Refer for interim study shall be a committee report only in the second year.
 - (b) any legislation creating a chapter study committee shall have membership limited to members of the general court.
23. When a bill is reported favorably with an amendment, the report of the committee shall state the amendment, and then recite the section of the bill in full as amended. The amendment shall be printed in the calendar of the journal on the date that the report is listed for action. If no action is taken on that day, then the amendment shall be printed on the day to which the bill has been referred. All bills reported shall be laid upon the table and shall not be finally acted upon until the following legislative day, and a list of such bills with the report thereon shall be published in the journal for the day on which action shall be taken.
24. Every bill and joint resolution appropriating money, which has been referred to another committee and favorably accepted by the Senate, shall be committed to the Finance Committee for review. If any such bills have been referred jointly to the Finance Committee and another standing committee, the Finance Committee may report

separately and a further public hearing may be held at the discretion of the Finance Committee. All bills appropriating money, which are referred directly to the Finance Committee shall have a hearing. Any bill which has been referred to another committee and favorably accepted by the Senate, which has an economic impact on the state may be referred to the Committee on Economic Development for review. The Committee on Economic Development may hold a further public hearing at the discretion of the committee.

25. All warrants, subpoenas and other processes issued by order of the Senate shall be under the hand and seal of the president attested by the clerk.
26. All committees of the Senate, including Senate members on committees of conference, shall consist of members of both parties as nearly equal as possible, provided that on all committees, both parties shall be represented. The president shall appoint the members of all committees, after consulting with the minority leader.
27. The standing committees of the Senate shall be as follows: ***Committee on Banks, Committee on Capital Budget, Committee on Economic Development, Committee on Education, Committee on Environment, Committee on Executive Departments & Administration, Committee on Finance, Committee on Insurance, Committee on Internal Affairs, Committee on Interstate Cooperation, Committee on Judiciary, Committee on Public Affairs, Committee on Public Institutions, Health & Human Services, Committee on Rules & Enrolled Bills, Committee on Transportation, Committee on Ways & Means, Committee on Wildlife & Recreation.***
28. Messages shall be sent to the House of Representatives by the clerk of the Senate.
29. Messages from the governor or House of Representatives may be received at all times, except when the Senate is engaged in putting the question, in calling the yeas and nays, or in counting the ballots.
30. All questions shall be put by the president, and each member of the Senate shall signify his assent or dissent by answering yea or nay. If the president doubts, or a division is called for, the Senate shall divide. Those in the affirmative on the question shall first rise from their seats and stand until they be counted. The president shall rise and state the decision of the Senate.
31. No person except members of the executive, or members of the House of Representatives and its officers, shall be admitted to the floor of the Senate, except by the invitation of the president, or some member with his consent.
32. The Senate shall adjourn to meet on the subsequent legislative day for the early session at the time mentioned in the adjournment motion. The late session shall immediately follow the early session unless the Senate shall otherwise order.
33. No standing rule of the Senate shall be suspended unless two-thirds of the members present vote in favor thereof. This rule shall not apply to Senate Rule 9.

34. No rule shall be rescinded unless two days notice of the motion has been given and two-thirds of those present vote therefor.
35. The Senate may resolve itself into a Committee of the Whole at any time on motion made for that purpose; and in forming a Committee of the Whole, the president shall leave the chair, and appoint a chairperson to preside in committee.
36. The president when performing the duties of the chair may, at any time, name any member to perform the duties of the chair.
37. The staff of the Senate shall be comprised of a clerk, an assistant clerk, a sergeant-at-arms, and a doorkeeper who are to be elected by the Senate, and such other personnel as the president shall appoint. The president shall define the duties of all members of the Senate staff which are not fixed by statute or otherwise ordered by the Senate.
38. Each member of the staff of the Senate shall be available on call to carry out the work of the Senate.
39. The committees shall promptly consider and report on all matters referred to them. The president may authorize such committees having a heavy load of investigation, re-drafting, research or amendments to meet as needed on non-legislative days during the legislative session. The clerk of the Senate shall prepare a list by number, title and sponsor of all Senate bills and resolutions in committee which have not been acted upon within one week before the deadline established for the transfer of bills and resolutions from the Senate to the House of Representatives, and he/she shall distribute this list to every member of the Senate as soon as it is prepared.
40. Any appeal from the ruling of the presiding officer shall be decided by majority vote of the members present and voting.
41. No new motion shall be admitted under color of amendment as a substitute for the motion under debate.
42. In all instances every member shall act in conformance with the duly adopted Ethical Guidelines and Opinions of the New Hampshire General Court.
43. Action on the floor of a report of the Committee on Finance or a Committee of Conference on either the general appropriations (budget) bill or the capital budget bill, shall not be taken by the Senate, until said report has been available from the Senate clerk twenty-four hours in advance, in written form. Non-germane amendments and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances.
44. **PERSONAL PRIVILEGE:** A senator may, as a matter of personal privilege, defend his/her position on a bill, his/her integrity, his/her record, or his/her conduct, against unfair or unwarranted criticism, or may speak of an issue which relates to his/her rights, privileges or conveniences as a senator; provided, however, the matters raised under personal privilege shall not be subject to questioning, answer, or debate, by another Senator. Personal privilege remarks may be

included in the daily journal if requested by the senator, and in the permanent journal by vote of the Senate. A senator may speak on other matters of his/her choosing and in such cases may be subject to questioning and/or answer according to the Rules of the Senate.

45. No officer or employee of the Senate during the session or any adjournment thereof shall purchase or contract for the purchase, pay or promise to pay any sum of money on behalf of the Senate or issue any requisition or manifest without the approval of the Senate President.
46. If a drafting request for a bill or resolution has been filed with the Office of Legislative Services requiring a fiscal note as provided in RSA 14:44-47, the substance or a draft of the proposal may be provided to the legislative budget assistant for preparation of the required fiscal note without the specific consent of the proposal, provided that the identity of the sponsor of the proposal, shall not be disclosed.

Adopted.

INTRODUCTION OF SENATE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 1 - SJR 1 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

First and Second Reading and Referral

97-0647

SB 1, relative to exclusive arrangements with managed care insurers. (Sen. F. King, Dist 1; Sen. K. Wheeler, Dist. 21; Insurance)

97-0696

SB 2, relative to the responsibilities of members of the clergy as mandated reporters and providing for privileged communications under the child protection act. (Sen. Roberge, Dist 9; Sen. D. Wheeler, Dist 11; Rep. Thulander, Hills 6; Rep. Larrabee, Merr 9; Judiciary)

97-0772

SB 3, relative to small employer and individual insurance. (Sen. Francoeur, Dist 14; Insurance)

97-0774

SB 4, relative to patient information. (Sen. K. Wheeler, Dist 21; Sen. Blaisdell, Dist 10; Rep. French, Merr 3; Rep. M. Fuller-Clark, Rock 36; Insurance)

97-0947

SB 5, relative to investments by trustees of town trust funds in mutual funds.. (Sen. Rubens, Dist 5; Banks)

97-1027

SB 6, relative to real estate appraisers. (Sen. D. Wheeler, Dist 11; Internal Affairs)

97-1031

SB 8, relative to continuing education requirements for workers' compensation claims adjusters. (Sen. Squires, Dist 12; Insurance)

97-1038

SB 9, relative to wagers at racetracks. (Sen. Johnson, Dist 3; Rep. Thomas, Belk 3; Ways and Means)

97-1040

SB 10, relative to funds for prearranged funerals or burial plans. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10; Public Affairs)

97-1042

SB 11, relative to settlements as to the amount of loss in insurance claims. (Sen. Squires, Dist 12; Insurance)

97-1043

SB 12, establishing a Northern New England Interstate Commission on Economic Development. (Sen. Cohen, Dist 24; Economic Development)

97-1051

SB 13, relative to continuing education for claims adjusters. (Sen. Danais, Dist 20; Sen. Blaisdell, Dist 10; Insurance)

97-1075

SB 14, allowing a municipality to vote to prohibit the sale of liquor in certain areas of the municipality. (Sen. Cohen, Dist 24; Ways and Means)

97-1078

SB 15, establishing a committee to examine all aspects of the state park system. (Sen. Hollingworth, Dist 23; Wildlife and Recreation)

97-1099

SB 16, relative to drinking water rules for public water systems. (Sen. Johnson, Dist 3; Environment)

97-1102

SB 17, restricting check collection charges by debt collection agencies. (Sen. Patenaude, Dist 7; Banks)

97-1103

SB 18, restricting the sale of certain items and requiring sellers at flea markets to have sales receipts for articles they are selling. (Sen. Patenaude, Dist 7; Public Affairs)

97-0310

SB 19, establishing a committee to study the environmental impact of businesses extracting water from the state's resources for sale. (Sen. Johnson, Dist 3; Environment)

97-0312

SB 20, establishing a committee to study presumptive sentencing. (Sen. Podles, Dist 16; Judiciary)

97-0314

SB 21, excepting persons who are 17 years old and graduated from high school from the youth employment law. (Sen. Pignatelli, Dist 13; Sen. J. King, Dist 18; Insurance)

97-0319

SB 22, relative to health benefit plans sponsored by qualified franchise associations.. (Sen. Fraser, Dist 4; Sen. Danais, Dist 20; Rep. Carson, Rock 29; Rep. A. Torr, Straf 12; Insurance)

97-0322

SB 23, relative to truck lanes. (Sen. Podles, Dist 16; Sen. J. King, Dist. 18; Rep. Gagnon, Hills 48; Transportation)

97-0323

SB 24, relative to prescriptions for certain controlled drugs. (Sen. Podles, Dist 16; Sen. Hollingworth, Dist 23; Rep. Copenhaver, Graf 10; Executive Departments and Administration)

97-0329

SB 25, establishing employer immunity from civil liability for good faith disclosure of information regarding current and former employees to prospective employers. (Sen. Danaïs, Dist 20; Sen. Cohen, Dist 24; Rep. A. Torr, Straf 12; Executive Departments and Administration)

97-0346

SB 26, preventing recovery by a nonsupporting parent in a wrongful death action filed on behalf of the nonsupported child. (Sen. Roberge, Dist 9; Sen. K. Wheeler, Dist 21; Sen. McCarley, Dist 6; Rep. Rollo, Straf 10; Rep. A. Pelletier, Straf 12; Rep. M. Pelletier, Straf 12; Judiciary)

97-0404

SB 28, requiring that certain dogs be inoculated by a licensed veterinarian before being sold. (Sen. Cohen, Dist 24; Wildlife and Recreation)

97-0407

SB 29, establishing a pet overpopulation trust. (Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Sen. Cohen, Dist 24; Rep. Hill, Graf 1; Rep. Dickinson, Carr 2; Wildlife and Recreation)

97-0409

SB 30, relative to time of dog licensure. (Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Sen. Cohen, Dist 24; Rep. Hill, Graf 1; Rep. Dickinson, Carr 2; Wildlife and Recreation)

97-0411

SB 31, relative to rabies certificates. (Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Sen. Cohen, Dist 24; Rep. Hill, Graf 1; Rep. Dickinson, Carr 2; Wildlife and Recreation)

97-0412

SB 32, relative to dogs at large. (Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Sen. Cohen, Dist 24; Rep. Hill, Graf 1; Rep. Dickinson, Carr 2; Wildlife and Recreation)

97-0414

SB 33, relative to the legal killing of certain dogs. (Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Sen. Cohen, Dist 24; Rep. Hill, Graf 1; Rep. Trelfa, Graf 2; Rep. McGuirk, Ches 1; Rep. Russell, Ches 15; Wildlife and Recreation)

97-0420

SB 34, repealing laws relative to abortion. (Sen. Russman, Dist 19; Sen. Hollingworth, Dist 23; Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Sen. Gordon, Dist 2; Rep. Hager, Merr 18; Rep. Keans, Straf 16; Rep. Schotanus, Sull 3; Rep. M. Fuller Clark, Rock 36; Rep. Norelli, Rock 31; Public Institutions, Health and Human Services)

97-0590

SB 35, including "handicap lift" within the definition of "elevator". (Sen. Blaisdell, Dist 10; Executive Departments and Administration)

97-0601

SB 36, relative to incarcerated convicted persons receiving workers' compensation payments. (Sen. Francoeur, Dist 14; Sen. D. Wheeler, Dist 11; Rep. Clegg, Hills 23; Rep. Guaraldi, Graf 14; Insurance)

97-0602

SB 37-L, relative to line items at town and school district meetings. (Sen. Francoeur, Dist 14; Public Affairs)

97-0604

SB 38, relative to certain activities under the workers' compensation law. (Sen. Francoeur, Dist 14; Insurance)

97-0608

SB 39, allowing a bank to establish and operate a mobile branch office. (Sen. Fraser, Dist 4; Rep. Hunt, Ches 10; Rep. Lindblade, Sull 7; Banks)

97-0631

SB 40, relative to the payment of wages by employers. (Sen. Blaisdell, Dist 10; Executive Departments and Administration)

97-0632

SB 41, relative to the time for filing requests for a hearing with the department of labor concerning violations of the whistleblower protection act. (Sen. Blaisdell, Dist 10; Executive Departments and Administration)

97-0634

SB 42, relative to the authority of the labor commissioner to revoke the license of an employee leasing company for violations of the labor laws. (Sen. Blaisdell, Dist 10; Executive Departments and Administration)

97-0636

SB 43, relative to the rulemaking authority of the state board of education. (Sen. F. King, Dist 1; Executive Departments and Administration)

97-0311

SB 44, establishing a committee to study the building of a state-owned liquor store in the city of Keene. (Sen. Blaisdell, Dist 10; Capital Budget)

97-0652

SB 45, relative to personnel rights of certain employees of the department of health and human services. (Sen. Blaisdell, Dist 10; Executive Departments and Administration)

97-0679

SB 46, relative to limited licenses for individuals engaged in certain insurance activities. (Sen. Fraser, Dist 4; Insurance)

97-0333

SJR 1, recognizing the town of Brentwood as the county seat of Rockingham county. (Sen. Barnes, Dist 17; Rep. Weyler, Rock 18; Rep. David Welch, Rock 18; Rep. J. Flanders, Rock 18; Rep. Battles-Peirce, Rock 18; Public Affairs)

Adopted.

ANNOUNCEMENTS

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, January 9, 1997 at 11:00 a.m.

Adopted.

LATE SESSION

Senator J. King moved that the business of the day being completed, the Senate adjourn until Thursday, January 9, 1997 at 11:00 a.m.

Adopted.

Adjournment.

January 9, 1997

INAUGURATION DAY

The Senate met at 11:00 A.M.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Guest Chaplain.

What is about to happen in the next room is not a transfer of power - not really. For when it comes right down to it, the outgoing governor has not had and the incoming governor is not going to have very much power at all. What we have loaned to Steve Merrill and now what we are about to loan to Jeannie Shaheen is not power, but rather responsibility - and that is what is about to be transferred.

You and I don't have very much power either, in our jobs or in our lives, and we play a silly game when we act like we do. But what we do have, from governor to garbage collector, is a great deal of responsibility, responsibility to care for what is within us and those who are around us. And therein lies the secret of genuine power.

Humble Lord of mighty power, send the thunderous energy of Your gentle spirit, upon those whom You make responsible for the exercise of leadership in our state. Give them wise minds, open ears, caring hearts and restrained lips and a constant awareness that we are all in this adventure together. Amen.

Senator Gordon led the Pledge of Allegiance.

Recess.

Senator Russman in the Chair.

INTRODUCTION OF GUESTS HOUSE MESSAGE

The House of Representatives is ready to meet in Joint Convention for the purpose of hearing the report of the Joint Committee appointed to compare and count the votes for governor and executive council, and the Inauguration of the Governor, the Honorable C. Jeanne Shaheen and the taking of the oath by the executive council.

RESOLUTION

Senator Barnes offered the following Resolution:

Be it RESOLVED, that the Senate meet with the House of Representatives in Joint Convention for the purpose of hearing the report of the Joint Committee appointed to compare and count the votes for governor and councilors and for the inauguration of the governor elect, the Honorable C. Jeanne Shaheen.

Adopted.

In recess for the purpose of Joint Convention.

Out of recess.

SENATE RULES AMENDMENT

Senator Pignatelli offered the following amendment:

17-A

(d) No bill the subject matter of which has been indefinitely postponed or made inexpedient to legislate in a Senate session shall be admitted

back into the senate for the remainder of that session or admitted into the second-year session whether as a bill, an amendment, a committee of conference report or in any other manner;

SENATOR PIGNATELLI: This is truly a magical day today with the inauguration of Governor Shaheen. It was filled with many traditions and customs and it was pretty emotional for me, for reasons that you can imagine and some that you might not. We also in the Senate have many traditions and customs, and we also have rules. Our rules are in place to make the place run easier and to serve the people's business and to do the people's business. I have proposed a couple of rule changes in response to some problems that I have seen that we have had with the current rules. Why don't we look at rule twenty-one? It is a pretty straightforward addition. If you have your copy of the rule, what I have proposed is underlined. What is not underlined is what we currently have. What we currently have is that there will be no amendments allowed that are not germane. We all know that we don't follow this rule a lot. Some of us on the Rules Committee have admitted that we don't follow this rule and some of them have admitted there own non-germane amendments and they have passed. This has been a source of frustration and bother to me. You might think that as a member of a minority party that I wouldn't be supporting a change to make it more difficult to add Non-germane amendments, but I don't look at this as a partisan addition to the rule or proposal to the rule, I look at it as something that will help us in doing the people's business. We have an image problem out there. I think that the federal elected officials have a greater image problem, but we do as well. One of the problems that we have, at least what I am hearing from my constituents, is that we do things in the dark many times. One of the things that I think that we do in the dark is that we allow amendments that don't particularly have something to do with the original bill to be added on, either to gain a vote or because perhaps a lobbyist may think that it is a good idea at the last minute to do it. But for whatever reason, I don't think that it is a good idea. I am not sure that my proposed change is going to solve the problem completely. But I felt that I needed to do something to help eliminate what I see as a problem in this chamber. That is the source of my proposed change. Certainly if you want to support it, I would love to have your support. I heard a case in the Rules Committee yesterday, not to pass it. Perhaps there isn't the support. Whatever, I needed to bring this forth, because this has been a problem for me in what I see happening in the Senate.

SENATOR BLAISDELL: Mr. President and members of the Senate, I am one of the persons that Senator Pignatelli is referring to. In the years that I have been here in the Senate, there have been many times that maybe there were some amendments that maybe weren't germane, but I left it up to the president of the Senate, who we duly elected in this body. I think that rather than put a rules change in and put us at a disadvantage with the House, and I truly believe that any thing that we change in the rules right now, would put us at a disadvantage here in the Senate against the House. I want to make sure that we have a level playing field. I recognize exactly what you are saying, Senator Pignatelli, but I think that you have the greatest forum in the world, that being the floor of this Senate, to be able to get up and speak to any amendment that you feel is not germane and for that reason, with all due respect to your concerns, I will have to vote against it, but I understand what you are saying. Every time, if it should come up in the Senate, I

would be one that would take every issue at a certain time to make sure that you were right. If you are right, then certainly I will vote with you, but please, I say not to pass this, because I think that it puts us at a disadvantage with the House. They are going to be having the same rules that we are having, we have to be very careful with that. I will have to admit that over the years, in the committee of conferences that we have had to talk about things that weren't quite as germane as they should be. Again, as I say, I respect your views, but I am sorry that I will not be able to support it.

SENATOR HOLLINGWORTH: Since the chairman of the Rules Committee is not present and I am the vice chair, oh, excuse me, Jack, I didn't see you come in. The amendments came before the Rules Committee and I will briefly explain to you, what the decision of the Rules Committee was. They believe that currently there is a mechanism in place for these problems to be resolved by the chair already, the president of the Senate, he already has the power in which to 1) rule on the germane-ness. 2) the ability for the House to have more power over the Senate if we have different rules than they do. It was clear that the Rules Committee was concerned that the power of the Senate would be less if we were to enact these amendments. 3) They did ask Senator Pignatelli to observe the process during this year and if she felt that if the powers that are now in place, the rules that are now in place, do not serve to be effective, that they would consider it in the second year. I believe that is basically the argument and the Rules Committee voted in opposition to the change at this present time.

Amendment fails.

Senator Pignatelli offered the following amendment:

21. No amendment shall be made but upon the second reading of a bill; and all amendments to bills and resolutions shall be in writing, with the name of the senator and the district he represents thereon. No amendment to any bill shall be proposed or allowed at any time or by a source, including a committee of conference, except it be germane. When an amendment is proposed and considered to be non germane, by 2 members the amendment may be laid on the table until the question is answered by the presiding officer in consultation with the clerk. Amendments shall have been reviewed by the office of Legislative Services for form, construction, statutory and chapter reference.

SENATOR PIGNATELLI: My sense is that this will probably meet the same fate as the first one, but here goes. Sometimes we decide as a body that a bill should not pass and we vote on it and it is killed, and then we see the same wording and the same language, the same bill, come back again in the same session. This is another one of our "traditions" or one of the things that has happened. I don't think that this is doing the people's business. I think that we ought not to allow that to happen in this body. I think that once we have killed something, once we have decided that it doesn't have any value as a potential law, we ought not to be voting for it again in that session, unless it is something of a critical nature and then we would always have it in our power to suspend our rules and to admit something. So that is the basis of my next rule. I offer it for your consideration. Thank you.

Amendment fails.

ANNOUNCEMENTS**RESOLUTION**

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that we be in recess for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings, and that when we adjourn, we adjourn to the call of the chair.

Adopted.

LATE SESSION**RESOLUTION**

Senator McCarley moved that the business of the day being completed, the Senate recess to the call of the chair for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings.

Adopted.

In recess.

Out of recess.

INTRODUCTION OF SENATE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the clerk, Senate Bills numbered 47 - CACR 13 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

97-0313

SB 47-FN, continuing the marital guardian ad litem recovery program in the unit of cost containment, office of the commissioner of administrative services.(Sen. Podles, Dist 16; Rep. Keans, Straf 16; Judiciary)

97-0341

SB 48-FN, to provide an optional retirement program for certain employees of the department of regional community-technical colleges.(Sen. Fraser, Dist 4, Rep. Stuart-Gile, Dist 16; Insurance)

97-0342

SB 49-FN, clarifying certain procedures under the lead paint law. (Sen. Fraser, Dist 4; Public Affairs)

97-0387

SB 50, relative to modifications in contracts concerning insurance company payout values (Sen. Gordon, Dist 2; Sen. Russman, Dist 19; Rep. Phinney, Graf 8; Insurance)

97-0405

SB 51, FN-LOCAL, relative to the proper sheltering of dogs. (Sen. Cohen, Dist 24; Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Wildlife and Recreation)

97-0410

SB 52-FN, prohibiting bear dog training. (Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Sen. Roberge, Dist 9; Wildlife and Recreation)

97-0417

SB 53-FN, relative to payment by the retirement system of certain medical benefits for group II members and for certain permanent firemen on disability retirement. (Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Sen. Larsen, Dist 15; Rep. Dwyer, Hills 43; Insurance)

97-0418

SB 54-FN, relative to gainful occupation of disability beneficiaries in the New Hampshire retirement system. (Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Rep. Dwyer, Hills 43; Insurance)

97-0432

SB 55-FN-LOCAL, relative to real estate seized in the town of Croydon for unpaid taxes. (Sen. Rubens, Dist 5; Sen. D. Wheeler, Dist 11; Rep. Murch, Hills 31; Rep. Jacobson, Merr 2; Rep. Nichols, Merr 2; Rep. Goulet, Hills 15; Rep. Root, Graf 8; Public Affairs)

97-0433

SB 56-FN-LOCAL, establishing a method for redemption of property by former owners of property seized for back taxes and limiting the recovery of municipalities in tax sales to back taxes. (Sen. Rubens, Dist 5; Sen. D. Wheeler, Dist 11; Sen. Barnes, Dist 17; Rep. Root, Graf 8; Rep. Jacobson, Merr 2; Rep. Murch, Hills 31; Rep. Goulet, Hills 15; Rep. Nichols, Merr 2; Public Affairs)

97-0446

SB 57, prohibiting bear and deer baiting for hunting purposes. (Sen. Cohen, Dist 24; Sen. Johnson, Dist 3; Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Wildlife and Recreation)

97-0451

SB 58-FN, prohibiting full-time employees of the state from receiving service retirement benefits from the retirement system during service as a full-time employee. (Sen. Cohen, Dist 24; Rep. J. Bradley, Carr 8; Insurance)

97-0471

SB 59-FN-LOCAL, relative to calculation of tuition for out-of-district pupils. (Sen. Johnson, Dist 3; Rep. Dickinson, Carr 2; Education)

97-0477

SB 60-FN, excluding claims against New Hampshire hospital which are under \$500 from the jurisdiction of the state board of claims. (Sen. Fraser, Dist 4; Executive Departments and Administration)

97-0498

SB 61-FN-LOCAL, relative to the payment rate for medical transporters. Sen. Larsen, Dist 15; Sen. J. King, Dist 18; Sen. Hollingworth, Dist 23; Rep. Emerton, Hills 7; Rep. Dyer, Hills 8; Rep. Copenhagen, Graf 10; Public Institutions, Health and Human Services)

97-0524

SB 62, authorizing the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 annual meeting of those towns to April 8. (Sen. Roberge, Dist 9; Rep. Burke, Hills 15; Rep. Root, Graf 8; Public Affairs)

97-0539

SB 63-FN, relative to access to motor vehicle records. (Sen. Blaisdell, Dist 10; Sen. Squires, Dist 12; Sen. Pignatelli, Dist 13; Sen. J. King, Dist 18; Transportation)

97-0566

SB 64-FN-A, exempting motor fuel used for automobile racing from road toll taxation. (Sen. Barnes, Dist. 17; Rep. Adams, Merr 9; Rep. Larrabee, Merr 9; Rep. Maxfield, Merr 9; Rep. Lockwood, Merr 9; Ways and Means)

97-0603

SB 65-FN-LOCAL, relative to pooled risk groups for insurance purposes. (Sen. Francoeur, Dist 14; Insurance)

97-0605

SB 66, allowing a state resident to obtain a license for a pistol or revolver for life. (Sen. Francoeur, Dist 14; Rep. L. Jean, Hills 17, Rep. McGough, Hills 18; Judiciary)

97-0657

SB 67-FN, increasing hazardous duty pay for state prison personnel. (Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Sen. Larsen, Dist 15; Rep. Dwyer, Hills 43; Public Institutions, Health and Human Services)

97-0658

SB 68-FN-LOCAL, providing health care coverage for the spouse and dependents of any group I or group II retirement system member who is killed in the line of duty. (Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Rep. Dwyer, Hills 43; Insurance)

97-0745

SB 69, relative to bargaining units of full-time firefighters. (Sen. Hollingworth, Dist 23; Executive Departments and Administration)

97-0747

SB 70, establishing a committee to examine campaign finance reform. (Sen. Hollingworth, Dist 23; Public Affairs)

97-0748

SB 71-FN, clarifying applicable penalties for violations of statutes or ordinances in cases in which the penalty is not specified by statutes and clarifying the right to a jury trial in cases in which a civil penalty is imposed for a violation. (Sen. Hollingworth, Dist 23; Judiciary)

97-0782

SB 74-FN, allowing holders of retail wine and combination wine and beverage licenses to sell fortified wines. (Sen. Cohen, Dist 24; Ways and Means)

97-0783

SB 75-FN, regulating beer festivals and requiring beer festival promoters to obtain a single event license for a fee from the liquor commission to hold a beer festival. (Sen. Cohen, Dist 24; Ways and Means)

97-0791

SB 76, limiting the liability of school districts operating facilities for skateboarding, rollerblading, or rollerskiing. (Sen. Gordon, Dist 2; Rep. Phinney, Graf 8; Rep. J. Bradley, Carr 8; Education)

97-0806

SB 77-FN-A, relative to congregate housing and making an appropriation therefor. (Sen. Cohen, Dist 24; Sen. Podles, Dist 16; Public Institutions, Health and Human Services)

97-0821

SB 78-FN-LOCAL, changing the school foundation aid distribution formula. (Sen. Blaisdell, Dist 10; Sen. J. King, Dist 18; Education)

97-0948

SB 79, relative to unclaimed and abandoned property, the statute of limitations on claims under the consumer protection statutes, and liens on personal property. (Sen. Rubens, Dist 5; Rep. Herman, Hills 13; Rep. Hunt, Ches 10; Executive Departments and Administration)

97-0997

SB 80-FN-A, excluding certain transfers from payment of the real estate transfer tax. (Sen. Gordon, Dist 2; Ways and Means)

97-0999

SB 81, relative to the administration of estates. (Sen. Gordon, Dist 2; Rep. Woods, Rock 25; Judiciary)

97-1000

SB 82, relative to determination of reasonable compensation for certain trustees. (Sen. Gordon, Dist 2; Rep. Woods, Rock 25; Judiciary)

97-1003

SB 83, relative to the bonding and operation of health clubs. (Sen. Gordon, Dist 2; Executive Departments and Administration)

97-1005

SB 84, revising the uniform simultaneous death act. (Sen. Gordon, Dist 2; Rep. Woods, Rock 25; Judiciary)

97-1007

SB 85, making technical changes in laws relative to the probate courts. (Sen. Gordon, Dist 2; Rep. Woods, Rock 25; Judiciary)

97-1034

SB 86-FN, requiring the division of motor vehicles to report those in default to a consumer reporting agency. (Sen. Johnson, Dist 3; Transportation)

97-1036

SB 87, relative to permissible agreements between beverage manufacturers and vendors and beverage wholesale distributors. (Sen. Johnson, Dist 3; Ways and Means)

97-1048

SB 88-FN-LOCAL, returning municipal ordinance fines to the municipalities. (Sen. Whipple, Dist 8; Sen. J. King, Dist 18; Sen. Hollingworth, Dist 23; Judiciary)

97-1058

SB 89, relative to legislative review of certain fire safety rules. (Sen. K. Wheeler, Dist 21; Rep. M. Smith, Straf 8; Rep. Kaen, Straf 7; Rep. A. Merrill; Straf 8; Rep. Estabrook, Straf 8; Executive Departments and Administration)

97-1062

SB 90-FN, requiring all proposed legislation affecting independently owned small businesses to include an analysis of the cost of the legislation. (Sen. Blaisdell, Dist 10; Internal Affairs)

97-1063

SB 91-FN, relative to the water well board. (Sen. Blaisdell, Dist 10; Executive Departments and Administration)

97-1064

SB 92, establishing a committee to study the utilization of the state's allocation of tax exempt private activity bonds. (Sen. Blaisdell, Dist 10; Banks)

97-1068

SB 93, relative to employees of employers who hire recipients of state assistance under the employment assistance program. (Sen. Hollingworth, Dist 23; Sen. J. King, Dist 18; Public Institutions, Health and Human Services)

97-1083

SB 94-LOCAL, relative to the financing of the New Hampshire civic center commission (Sen. Larsen, Dist 15; Sen. Blaisdell, Dist 10; Sen. Johnson, Dist 3; Sen. Danais, Dist 20; Rep. Fraser, Merr 21; Rep. Dunn, Merr 24; Rep. Hager, Merr 18; Finance)

97-1085

SB 95-FN-A, establishing a child day care training and recruitment fund and making an appropriation therefor. (Sen. Squires, Dist 12, Rep. Stuart-Gile, Merr 16; Education)

97-1086

SB 96, relative to the priority of charges in probate of estates. (Sen. Gordon, Dist 2; Rep. Woods, Rock 25; Judiciary)

97-1088

SB 97 LOCAL, relative to polling hours in small towns. (Sen. Gordon, Dist 2; Public Affairs)

97-1094

SB 98-FN, relative to the submission of youth employment certificates to employers. (Sen. Fraser, Dist 4; Public Institutions, Health and Human Services)

97-1095

SB 99, requiring a determination of community benefits by the director of charitable trusts prior to certain mergers of nonprofit health maintenance organizations. (Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Rep. M. Smith, Straf 8; Rep. A. Merrill, Straf 8; Rep. Alger, Graf 9; Executive Departments and Administration)

97-1096

SB 100-FN, establishing a New Hampshire film and television commission. (Sen. Johnson, Dist 3; Executive Departments and Administration)

97-1098

SB 101, requiring certain hospitals to file certain forms with the director of charitable trusts. (Sen. K. Wheeler, Dist 21; Rep. M. Smith, Straf 8; Rep. A. Merrill, Straf 8; Executive Departments and Administration)

97-1104

SB 102-FN, relative to the possession of certain weapons in the commission of a violent crime. (Sen. Gordon, Dist 2; Sen. D. Wheeler, Dist 11; Judiciary)

97-1105

SB 103, Establishing a committee to study issues relating to the licensing of child day care centers. (Sen. Gordon, Dist 2; Sen. D. Wheeler, Dist 11; Executive Departments and Administration)

97-1107

SB 104, relative to rate setting for purposes of automobile insurance and homeowners insurance. (Sen. Gordon, Dist 2; Sen. Squires, Dist 12; Sen. Russman, Dist 19; Insurance)

97-1056

SB 106-FN, relative to licensure of oil and gas burner technicians. (Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Rep. M. Smith, Straf 8; Executive Departments and Administration)

97-1113

SB 107, giving the deputy legislative budget assistant the authority to perform the duties of the legislative budget assistant under certain circumstances. (Blaisdell, Dist 10; Internal Affairs)

97-0390

SB 108 authorizing school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 annual meetings (Sen. Rubens, Dist 5; Sen. Squires, Dist 12; Sen. Whipple, Dist 8; Sen. D. Wheeler, Dist 11; Rep. J. Bradley, Carr 8; Rep. Dokmo, Hills 14; Rep. Burke, Hills 15; Public Affairs)

97-0337

SJR 2, relative to federal funding under the Individuals with Disabilities Education Act. (Sen. Rubens, Dist 5; Sen. Gordon, Dist 2; Sen. Squires, Dist 12; Sen. D. Wheeler, Dist 11; Sen. Patenaude, Dist 7; Rep. Belvin, Hills 14; Rep. Hunt, Ches 10; Rep. F. Riley, Hills 44; Rep. Thulander, Hills 6; Education)

97-0363

SB 27, allowing municipalities to assess property semi-annually in April and October. (Sen. Roberge, Dist 9; Sen. Podles, Dist 16; Rep. Burke, Hills 15; Rep. Goulet, Hills 15; Public Affairs)

97-0320

SB 109, relative to the official ballot voting option. (Sen. Rubens, Dist 5; Sen. Squires, Dist 12; Sen. Whipple, Dist 8; Sen. D. Wheeler, Dist 11; Rep. Weber, Graf 11; Rep. Dokmo, Hills 14; Rep. G. Brown, Straf 17; Rep. Burke, Hills 15; Public Affairs)

97-0324

SB 110-LOCAL, allowing the Coos county convention to revise the compensation of the county sheriff. (Sen. F. King, Dist 1; Rep. Horton, Coos 3; Rep. L. Pratt, Coos 4; Rep. Tholl, Coos 5; Public Affairs)

97-0369

SB 111, relative to appeal of decisions of the public employee labor relations board. (Sen. Roberge, Dist 9; Rep. Goulet, Hills 15; Rep. Bergin, Hills 14; Rep. Letendre, Hills 15; Rep. Flora, Hills 15; Insurance)

97-0372

SB 112, establishing a commission on environmental programs. (Sen. Pignatelli, Dist 13; Sen. Russman, Dist 19; Sen. J. King, Dist 18; Rep. M. Fuller Clark, Rock 36; Rep. Owen, Merr 6; Rep. Musler, Straf 6; Rep. Trelfa, Graf 2; Rep. Eaton, Graf 1; Executive Departments and Administration)

97-0373

SB 113, establishing a committee to study health care issues related to individuals who are underinsured or without insurance. (Sen. Pignatelli, Dist 13; Sen. McCarley, Dist 6; Sen. Squires, Dist 12; Sen. Fraser, Dist 4; Sen. J. King, Dist 18; Rep. Lindblade, Sull 7; Rep. M. Fuller Clark, Rock 36; Rep. Nordgren, Graf 10; Rep. Emerton, Hills 7; Rep. Morello, Hills 38; Rep. Copenhaver, Graf 10; Insurance)

97-0397

SB 114, requiring any person under 21 years of age who is convicted of any alcohol related offense to successfully complete an alcohol treatment program. (Sen. Roberge, Dist 9; Rep. J. Bradley, Carr 8; Rep. L'Heureux, Hills 18; Transportation)

97-0472

SB 115-LOCAL, allowing a receiving district to withdraw from an area school district. (Sen. Johnson, Dist 3; Public Affairs)

97-0480

SB 116-FN, relative to the regulation of rural electric cooperatives by the public utilities commission. (Sen. Gordon, Dist 2; Sen. F. King, Dist 1; Sen. Johnson, Dist 3; Sen. Rubens, Dist 5; Rep. Thomas, Belk 3; Rep. G. Chandler, Carr 1; Rep. Lovett, Graf 6; Rep. D. White, Hills 25; Executive Departments and Administration)

97-0614

SB 117, requiring health maintenance organizations to cover individuals. (Sen. K. Wheeler, Dist 21; Rep. M. Fuller Clark, Rock 36; Rep. French, Merr 3; Rep. M. Smith, Straf 8; Insurance)

97-0615

SB 118, prohibiting lifetime caps on health insurance coverage. (Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Rep. M. Fuller Clark, Rock 36; Rep. French, Merr 3; Rep. M. Smith, Straf 8; Insurance)

97-0620

SB 119, prohibiting a person convicted of any sexual offense, felony, or DWI offense from obtaining a waiver to remove the person's driver's license image from department of safety records. (Sen. Podles, Dist 16; Rep. Knowles, Straf 11; Judiciary)

97-0655

SB 120, relative to the application form for a resident license for a pistol or revolver. (Sen. Podles, Dist 16; Rep. Langer, Merr 11; Rep. Pfaff; Merr 11; Executive Departments and Administration)

97-0678

SB 121, authorizing state-chartered financial institutions to engage in certain insurance activities. (Sen. Fraser, Dist 4; Banks)

97-0746

SB 122, relative to the regulation of managed care organizations. (Sen. Hollingworth, Dist 23; Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Sen. J. King, Dist. 18; Rep. Copenhagen, Graf 10; Rep. A Torr, Straf 12; Rep. O'Keefe, Rock 21; Rep. Ziegler, Belk 5; Rep. Moore, Merr 19; Rep. Burling, Sull 1; Insurance)

97-0789

SB 123, relative to shellfish harvesting areas. (Sen. Cohen, Dist 24; Rep. L'Heureux, Hills 18; Wildlife and Recreation)

97-0837

SB 124, relative to the imposition of fines by the state board of licensure for land surveyors. (Sen. Patenaude, Dist 7; Sen. C. Johnson, Dist 3; Rep. Crowell, Merr 2; Executive Departments and Administration)

97-0838

SB 125, relative to the right of entry upon lands for surveying. (Sen. Patenaude, Dist 7; Sen. Johnson, Dist 3; Rep. Crowell, Merr 2; Executive Departments and Administration)

97-0854

SB 126, prohibiting the state employee health plan from paying for abortions. (Sen. D. Wheeler, Dist 11; Rep. Milligan, Hills 18; Rep. L. Jean, Hills 17; Insurance)

97-0856

SB 127, requiring candidates for public office to report receipt of contributions in excess of \$500. (Sen. Larsen, Dist 15; Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Rep. J. Bradley, Carr 8; Public Affairs)

97-0987

SB 128, increasing the membership of the university system study committee. (Sen. K. Wheeler, Dist 21; Sen. J. King, Dist 18; Sen. Cohen, Dist 24; Rep. M. Smith, Straf 8; Rep. Merritt, Straf 8; Education)

97-1033

SB 130, relative to the portability, availability, and renewability of health coverage. (Sen. Squires, Dist 12; Insurance)

97-0079

SB 131-FN, allowing certain state employees to take paid leave to participate in disaster relief service work. (Sen. Larsen, Dist 15; Sen. Podles, Dist 16; Sen. Blaisdell, Dist 10; Sen. Patenaude, Dist 7; Rep. Holley, Hills 28; Rep. Schotanus, Sull 3; Rep. Wallner, Merr 24; Rep. A. Merrill, Straf 8; Executive Departments and Administration)

97-0500

SB 133, relative to the task force on perinatal chemical dependency. (Sen. Larsen, Dist 15; Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Rep. Holden, Hills 14; Rep. Lozeau, Hills 30; Rep. Nordgren, Graf 10; Rep. Allison, Sull 10; Public Institutions, Health and Human Services)

97-0610

SB 134, repealing the certificate of need law. (Sen. Danaïs, Dist 10; Rep. Boutin, Hills 37; Public Institutions, Health and Human Services)

97-0724

SB 135, adopting the uniform "transfer on death" security registration act. (Sen. Gordon, Dist 2; Banks)

97-1041

SB 136-LOCAL, relative to interment of dead bodies. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10; Rep. Arnold, Hills 20; Judiciary)

97-1044

SB 137, relative to the powers of the Pease Development Authority. (Sen. Cohen, Dist 24; Sen. Fraser, Dist 4; Rep. M. Fuller Clark, Rock 36; Rep. Hunt, Ches 10; Rep. Syracuse, Rock 33; Economic Development)

97-1057

SB 138, establishing teacher appreciation day. (Sen. Pignatelli, Dist 13; Sen. J. King, Dist 18; Sen. Larsen, Dist 15; Sen. F. King, Dist 1; Sen. Squires, Dist 12; Sen. Gordon, Dist 2; Rep. Franks, Hills 26; Rep. Ferguson, Hills 13; Rep. M. Fuller Clark, Rock 36; Rep. Durham, Hills 22; Education)

97-1065

SB 139, authorizing banks to invest trust funds in bank-affiliated investments. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10; Sen. Danaïs, Dist 20; Rep. DePecol, Ches 14; Rep. Mittelman, Hills 37; Banks)

97-1067

SB 140, requiring that nuclear power facilities be bonded for the cost of potential decommissioning and relative to annual public hearings of the nuclear decommissioning committee. (Sen. Hollingworth, Dist 23; Sen. Cohen, Dist 24; Sen. McCarley, Dist 6; Sen. Blaisdell, Dist 10; Sen. J. King, Dist 18; Rep. Cushing, Rock 22; Rep. Below, Graf 13; Executive Departments and Administration)

97-1079

SB 141, establishing a committee to study the risks posed to children by the unsafe storage and use of firearms. (Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Rep. M. Smith, Straf 8; Rep. Seldin, Merr 17; Public Institutions, Health and Human Services)

97-1080

SB 142, limiting the authority of the state board of education relative to appeals. (Sen. Larsen, Dist 15; Rep. Burney, Merr 14; Education)

97-1084

SB 143, authorizing a municipality to change the date for filing for an elderly exemption. (Sen. Squires, Dist 12; Sen. Pignatelli, Dist 13; Sen. J. King, Dist 18; Public Affairs)

97-1087

SB 144, establishing a committee to study certain issues regarding Silver Lake in the towns of Belmont and Tilton. (Sen. Gordon, Dist 2; Sen. Patenaude, Dist 7; Rep. Bartlett, Belk 6; Rep. Pilliod, Belk 3; Rep. Thomas, Belk 3; Rep. Salatiello, Belk 2; Rep. Whittemore, Merr 13; Environment)

97-1091

SB 145-LOCAL, relative to the definition of "open space land" for purposes of current use taxation. (Sen. Whipple, Dist 8; Rep. G. Brown, Straf 17; Rep. Keans, Straf 16; Public Affairs)

97-1092

SB 146, establishing a committee to study the issue of reducing the number of years of service required to be vested in the retirement system plan from 10 years to 5 years. (Sen. Hollingworth, Dist 23; Insurance)

97-1093

SB 147, relative to forms and rates of industrial insurance policies. (Sen. Danais, Dist 20; Insurance)

97-1097

SB 148, requiring that milk products known to contain the genetically produced bovine somatotropin growth hormone be so labeled. (Sen. McCarley, Dist 6; Sen. J. King, Dist 18; Sen. Hollingworth, Dist 23; Rep. Keans, Straf 16; Rep. Nordgren, Graf 10; Public Institutions, Health and Human Services)

97-1100

SB 149, prohibiting state agencies managing federal programs from exceeding their statutory authority in implementing administrative rules and in placing restrictions on activities of the private sector. (Sen. F. King, Dist 1; Interstate Cooperation)

97-1101

SB 150, relative to the liability of owners of dams for certain dam management practices. (Sen. F. King, Dist 1; Environment)

97-1108

SB 151, relative to final orders on appeals of decisions of zoning boards of adjustment. (Sen. Gordon, Dist 2; Executive Departments and Administration)

97-1110

SB 152, relative to the city of Manchester budget cycle. (Sen. Danais, Dist 20; Public Affairs)

97-1053

CACR 12, RELATING TO: returning annual legislative sessions to biennial legislative sessions. PROVIDING THAT: the general court shall meet biennially. (Sen. D. Wheeler, Dist 11; Sen. Podles, Dist 16; Sen. Francoeur, Dist 14; Internal Affairs)

97-0855

CACR 13, RELATING TO: the governor's veto power. PROVIDING THAT: the governor shall have line item reduction and line item veto power of items in any bill making appropriations of money. (Sen. D. Wheeler, Dist 11; Sen. Podles, Dist 16; Sen. Francoeur, Dist 14; Internal Affairs)

97-0682

SJR 3, urging the United States Congress to adopt a constitutional amendment for environmental rights. (Sen. Russman, Dist 19; Sen. Pignatelli, Dist 13; Sen. Cohen, Dist 24; Sen. Fraser, Dist 4; Rep. Merritt, Straf 8; Rep. A. Merrill, Straf 8; Environment)

97-0779

SB 73-FN, providing that telephone and cable communications poles and lines be subject to the property tax. (Sen. Whipple, Dist 8; Sen. McCarley, Dist 6; Sen. J. King, Dist 18; Sen. Hollingworth, Dist 23; Ways and Means)

97-0315

SB 105, relative to rent collection upon delinquency in payment of common expenses by condominium unit owners. (Sen. Pignatelli, Dist 13; Sen. Danais, Dist 20; Sen. Larsen, Dist 15; Rep. Fraser, Merr 21; Public Affairs)

97-0998

SB 129, relative to manufactured housing deeds. (Sen. Gordon, Dist 2; Public Affairs)

97-0386

SB 153, relative to reports of certain motor vehicle accidents and requiring a check-off box on a driver's license application form relative to having the social security number indicated on the driver's license. (Sen. Larsen, Dist 15; Sen. J. King, Dist 18; Transportation)

97-0422

SB 154, relative to charter schools. (Sen. Rubens, Dist 5; Sen. Patenaude, Dist 7; Sen. Johnson, Dist 3; Rep. Hunt, Ches 10; Rep. Thulander, Hills 6; Rep. Weber, Graf 11; Education)

97-0434

SB 155, requiring the division of educational improvement, department of education, to prepare and adopt a plan for providing special education to inmates in the state prison system and county correctional facilities. (Sen. Gordon, Dist 2; Sen. J. King, Dist 18; Rep. Dolan, Rock 12; Rep. Richardson, Ches 12; Rep. Malcolm, Rock 22; Rep. Durham, Hills 22; Education)

97-0435

SB 156, establishing a committee to study issues relating to providing special education services to eligible pupils who are incarcerated in the state prison system and county correctional facilities. (Sen. Gordon, Dist 2; Sen. J. King, Dist 18; Rep. Dolan, Rock 12; Rep. Richardson, Ches 12; Rep. Malcolm, Rock 22; Rep. Durham, Hills 22; Education)

97-0744

SB 157, adding the name of Martin Luther King, Jr. to Civil Rights Day. (Sen. Hollingworth, Dist 23; Sen. J. King, Dist 18; Sen. Pignatelli, Dist 13; Sen. Cohen, Dist 24; Sen. Russman, Dist 19; Sen. Fraser, Dist 4; Rep. Weatherspoon, Rock 20; Rep. L. Johnson, Hills 40; Rep. C. Brown, Graf 14; Rep. A. Torr, Straf 12; Rep. J. Bradley, Carr 8; Internal Affairs)

97-0749

SB 158-FN-A, relative to beach erosion along the south side of the Hampton Harbor Inlet and making an appropriation therefor. (Sen. Hollingworth, Dist 23; Sen. Blaisdell, Dist 10; Sen. J. King, Dist 18; Rep. J. Kelley, Rock 22; Rep. Malcolm, Rock 22; Rep. Francoeur, Rock 22; Rep. A. Christie, Rock 22; Rep. Cushing, Rock 22; Rep. O'Keefe, Rock 21; Environment)

97-0750

SB 159-FN, establishing a committee to study increased public access to data concerning physicians. (Sen. Hollingworth, Dist 23; Sen. McCarley, Dist 6; Sen. K. Wheeler, Dist 21; Sen. J. King, Dist 18; Rep. O'Keefe, Rock 21; Public Institutions, Health and Human Services)

97-0756

SB 160-FN, establishing criteria for determining manifest educational hardship. (Sen. Rubens, Dist 5; Education)

97-0780

SB 161-FN-A, relative to the Seacoast Science Center and making an appropriation therefor. (Sen. Cohen, Dist 24; Rep. M. Fuller Clark, Rock 36; Rep. Langley, Rock 24 ; Capital Budget)

97-0996

SB 162-FN-A-LOCAL, relative to the acquisition of a certain piece of property in Piermont, New Hampshire and making an appropriation therefor. (Sen. Gordon, Dist 2; Sen. F. King, Dist 1; Sen. Johnson, Dist 3; Rep. LaMott, Graf 5; Rep. Teschner, Graf 5; Rep. W. Williams, Graf 3; Economic Development)

97-1001

SB 163, relative to the Uniform Anatomical Gift Act. (Sen. Gordon, Dist 2; Rep. Woods, Rock 25; Judiciary)

97-1006

SB 164, establishing a committee to study the establishment of a registry for intellectual property. (Sen. Gordon, Dist 2; Executive Departments and Administration)

97-1032

SB 165, relative to Medicare and health maintenance organizations and small employer and individual insurance. (Sen. Squires, Dist 12; Insurance)

97-1052

SB 166-LOCAL, relative to ensuring proper payment of municipal registration permit fees. (Sen. Barnes, Dist 17; Rep. Bishop, Rock 12; Transportation)

97-1066

SB 167, relative to the regulation of naturopathic practitioners. (Sen. Podles, Dist 16; Sen. D. Wheeler, Dist 11; Sen. Squires, Dist 12; Rep. Dyer, Hills 8; Rep. Arnold, Hills 20; Rep. Emerton, Hills 7; Executive Departments and Administration)

97-0773

SB 7-FN, relative to procedures applying to persons receiving temporary state assistance. (Sen. Barnes, Dist. 17; Public Institutions, Health and Human Services)

In recess to the Call of the Chair.

Out of recess.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, January 23, 1997 at 10:00 a.m.

Adopted.

Adjournment.

January 23, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Guest Chaplain.

As all these many bills are filed and as your creative juices are working overtime to think of ways to strengthen and even improve our lot and life here in New Hampshire, tend carefully to that next step which is together to narrow down the list of things you could accomplish to include only those few things you should accomplish. If you aim at nothing, you're sure to hit it. If you aim at everything, your ammunition is wasted. And if you aim at each other, all of us will bleed to death.

Almighty God, focus the skills and energies and passions of these good men and women and turn their minds and hearts toward those few tasks which are essential, that together they may be as preoccupied with how they spend their time as they are with how they spend our money.

Amen.

Senator Johnson led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 16, relative to drinking water rules for public water systems. Environment Committee. Ought to pass, Senator Johnson for the committee.

SENATOR JOHNSON: With the reauthorization of the Safe Drinking Water Act by congress last year, money has been made available through the state revolving loan fund. This fund provides low interest loans for public water systems. Senate Bill 16 is necessary to provide the Department of Environmental Services the legal authority to ensure that the public water system will remain viable into the future. It provides DES with rulemaking authority to oversee this area. Without legislation in place by 1998, the state stands to lose 20 percent of its allocation under the revolving loan fund plan. Access to this funding is essential for smaller water systems that are already experiencing financial hardships under the new Safe Drinking Water Act. The Environment Committee urges you to vote ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

SB 19, establishing a committee to study the environmental impact of businesses extracting water from the state's resources for sale. Environment Committee. Ought to pass, Senator Johnson for the committee.

SENATOR JOHNSON: Senate Bill 19 creates a study committee to examine the environmental and economic impacts resulting from busi-

nesses who extract water from New Hampshire for the purposes of bottling and retail. These companies, mostly out-of-state businesses, are depleting New Hampshire's natural resources without returning anything, financially or environmentally. For the town that is town to the water source, it is hoped that the study committee will be able to find a way to protect the state's resources from this type of exportation. The Environment Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 41, relative to the time for filing requests for a hearing with the department of labor concerning violations of the whistleblower protection act. Executive Departments and Administration Committee. Ought to pass with amendment, Senator J. King for the committee.

1997-0018s

10

Amendment to SB 41

Amend the bill by replacing section 1 with the following:

1 New Section; Whistleblower Protection Act; Complaints Required to be Filed Within 3 Years. Amend RSA 275-E by inserting after section 4 the following new section:

275-E:4-a Statute of Limitations. A request by an employee for a hearing pursuant to RSA 275-E:4 must be filed with the department within 18 months years of the date that the discharge, threat, or other discrimination by the employer occurred.

AMENDED ANALYSIS

This bill requires that requests for a hearing by employees under the whistleblower protection act be filed within 18 months years from the date of the discharge, threat, or other discrimination by the employer.

SENATOR J. KING: Senate Bill 41 requires that a hearing by employees under the whistleblower protection act be filed within 18 months from the date of discharge, threat, or other discrimination by the employer. The current "catch all" standard is a three-year time limit, derived from section 508. Limiting the term frame in which to request a hearing will ease the burden of recordkeeping on the employer and will enable witnesses and all those involved to provide more accurate recollections. The committee recommends that the bill ought to pass as amended. However, due to two typographical errors, I am proposing a floor amendment to strike from line 3 of the amendment "three years" and insert "18 months" and to strike the word "years" from line 6 of the amendment. That is all that there is to that. Thank you.

Amendment adopted.

Senator J. King offered a floor amendment.

1997-0029s

10/02

Floor Amendment to SB 41

Amend the bill by replacing section 1 with the following:

1 New Section; Whistleblower Protection Act; Complaints Required to be Filed Within 18 Months. Amend RSA 275-E by inserting after section 4 the following new section:

275-E:4-a Statute of Limitations. A request by an employee for a hearing pursuant to RSA 275-E:4 must be filed with the department within 18 months of the date that the discharge, threat, or other discrimination by the employer occurred.

AMENDED ANALYSIS

This bill requires that requests for a hearing by employees under the whistleblower protection act be filed within 18 months from the date of the discharge, threat, or other discrimination by the employer.

SENATOR J. KING: All that this amendment does is make the two the same. If you will notice in the amendment, on page three, it says that 18 "years." "Years" will be deleted. The first section, section one, has within three years and we are making it 18 months. It just says 18 months in both places. That is all that this does.

Floor amendment adopted.

Ordered to third reading.

SB 42, relative to the authority of the labor commissioner to revoke the license of an employee leasing company for violations of the labor laws. Executive Departments and Administration Committee. Ought to pass with amendment, Senator Larsen for the committee.

1997-0019s

10

Amendment to SB 42

Amend the bill by replacing section 1 with the following:

1 Revocation for Violation of Labor Laws. Amend RSA 277-B:7, I to read as follows:

I. The commissioner shall issue a license as an employee leasing company to any person who qualifies for the license under the terms of this chapter. The commissioner may~~[-, in addition,]~~ refuse to issue a license to any person or may suspend or revoke the license of any employee leasing company as provided in RSA 541-A, when the commissioner finds that the licensee or applicant has violated any of the provisions of this chapter, the rules adopted hereunder, or failed to pay federal withholding tax, unemployment insurance contributions, wages, or benefits when due. ***The commissioner may, in addition, only after notice and opportunity for a hearing revoke the license of a licensee for a violation of any provision of RSA title XXIII or rule adopted pursuant to any provision of RSA title XXIII.*** If a license is revoked under this section, the commissioner may notify the appropriate client companies of such revocation, and shall notify the client companies of the penalties under RSA 277-B:12, III.

SENATOR LARSEN: Senate Bill 42 allows the commissioner of labor to revoke a license of an employee leasing company for violations of the labor law, only after notice and opportunity for a hearing. Currently, employee leasing company licenses can be revoked only for a violation of section RSA 277-B:7. This bill would enable the Department of Labor to revoke the license of an employee leasing company for a violation of any labor law and workers' compensation law under RSA title XXIII. Proponents and owners of these companies testified that this bill would strengthen the image of employee leasing companies. The committee recommends that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 21, excepting persons who are 17 years old and graduated from high school from the youth employment law. Insurance Committee. Ought to pass, Senator Danais for the committee.

LAID ON THE TABLE

Senator Danais moved to have SB 21, excepting persons who are 17 years old and graduated from high school from the youth employment law, laid on the table.

Adopted.

SB 21 is laid on the table.

SB 22, relative to health benefit plans sponsored by qualified franchise associations. Insurance Committee. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, SB 22 allows a small group of small business owners to continue to provide access to health insurance for their employees while still complying with the New Hampshire Small Employee Health Care Law. SB 22 allows them to participate in a savings afforded through their national plan, while still requiring them to expand their programs to meet the objectives of SB 711. Without the bill, a very small group of employees would be faced with health insurance increases that would vary between 61 and 153 percent. We would urge the adoption of the bill as presented.

SENATOR HOLLINGWORTH: I am in support of passage of SB 22, but I would, for the record, like to say that I would oppose any further carving away at the insurance that we have passed in the state under 711. I clearly believe that this is an extreme exception and that I would support it in this case. I do want to be on the record that I would oppose any further carving away.

SENATOR FRASER: I would like to let the body know that I concur wholeheartedly with Senator Hollingworth's comments.

Adopted.

Senator Fraser offered a floor amendment.

1997-0032s

08/02

Floor Amendment to SB 22

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

SENATOR FRASER: Mr. President, at the request of the New Hampshire Insurance Department, we would like to make SB 22 effective upon passage.

Floor amendment adopted.

Ordered to third reading.

Senator Barnes (Rule #42).

SB 46, relative to limited licenses for individuals engaged in certain insurance activities. Insurance Committee. Inexpedient to legislate, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, initially because of what happened in some other states, there was a group of agents who sell credit life and credit health insurance who thought that they needed an additional

limited license in New Hampshire. The bill had been drafted and a number had been assigned to it before they learned from the New Hampshire Insurance Department that their current licenses are more than adequate and that they can continue doing what they have been doing in the past. I have asked the committee and I hope that you will support inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 107, giving the deputy legislative budget assistant the authority to perform the duties of the legislative budget assistant under certain circumstances. Internal Affairs Committee. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: This bill gives the deputy legislative budget assistant the authority to perform the duties of the legislative budget assistant when the position of legislative budget assistant is vacant. This bill gives the deputy LBA the same responsibility in cases when a superior leaves the office as other state positions, making this legislation a house cleaning measure. The Internal Affairs Committee voted unanimously to pass this along to the floor.

Adopted.

Ordered to third reading.

SB 108, authorizing school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 annual meetings. Public Affairs Committee. Ought to pass with amendment, Senator Rubens for the committee.

1997-0015s

08/02

Amendment to SB 108

Amend the title of the bill by replacing it with the following:

AN ACT authorizing school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 and 1998 annual meetings.

Amend the bill by replacing section 1 with the following:

1 Additional Polling Places for Multi-Town School Districts for 1997 and 1998 Annual Meetings. To facilitate voting for the second session of 1997 and 1998 annual or special meetings only, the governing body of a multi-town school district which has adopted the official ballot referendum form of meeting may authorize the establishment of additional polling places within the district to best accommodate the voters. The additional polling places shall be supervised by the election officials of the towns or cities in which the additional polling places are located, as provided in RSA 671:26. All additional costs resulting from the establishment of additional polling places shall be borne by the school district.

AMENDED ANALYSIS

This bill allows school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 and 1998 annual meetings.

SENATOR RUBENS: The title as read describes the purpose of the bill. It is a simple bill. There are numerous petitions that we have received throughout the state. Many of them with upwards of a thousand signatures each requesting very, very, strong support and requesting very prompt action by the Senate on this measure. Some of the larger school districts, multi-town school districts, include up to nine towns and span 30 miles in diameter allowing people to vote closer to their residences. This would enable greater voter turnout and would lessen the difficulties for the elderly and those who rely on volunteers for travel to and from the polls and meetings. The committee recommends the bill as ought to pass as amended. Additionally, the intent of the bill is the unanimous recommendation of a summer study committee, a summer or fall study committee that we worked on. The bill is agreed to by all constituencies including Bob Ambrose, assistant secretary of state and Barbara Reid of the DRA and Bernie Waugh of the Municipal Association. Thank you.

Amendment adopted.

Ordered to third reading.

SJR 1, recognizing the town of Brentwood as the county seat of Rockingham county. Public Affairs Committee. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: This joint resolution would allow the town of Brentwood to assume the title of county seat. A title that currently belongs to the town of Exeter. Currently, Brentwood is home to the county jail, the county farm, the county offices and the county courthouse; all of which occupy a combined 440 acres of otherwise taxable property. The Public Affairs Committee voted in favor of the measure because allowing the town of Brentwood to carry the county seat would promote economic development and town pride and would provide a more central location within Rockingham county than currently provided by the town of Exeter. The committee recommends that the resolution ought to pass.

Adopted.

Ordered to third reading.

SB 28, requiring that certain dogs be inoculated by a licensed veterinarian before being sold. Wildlife and Recreation Committee. Inexpedient to legislate, Senator Cohen for the committee.

SENATOR COHEN: Mr. President, as this bill went to committee, too much disagreement remained between interested parties on technical issues for the bill to be considered this year. So as prime sponsor, I recommend to the committee and to the full Senate, that we find this bill inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 30, relative to time of dog licensure. Wildlife and Recreation Committee. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: Senate Bill 30 requires dogs to be licensed at four months of age. Currently, licensure is required by three months of age; however, the statutes give an owner up to four months to have their dog vaccinated, which is a prerequisite for licensure. The change in SB 30 makes it easier for pet owners to comply with these laws by providing a four month grace period for both vaccination and licensure. The Wildlife and Recreation Committee recommend this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 32, relative to dogs at large. Wildlife and Recreation Committee. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-0017s

01

Amendment to SB 32

Amend the bill by replacing section 1 with the following:

1 Penalty Added. Amend RSA 466:31-a, III to read as follows:

III. Any person who pays a civil forfeiture specified in paragraph II 2 times in any 12-month period according to the records of the town or city clerk, may not pay a civil forfeiture for subsequent violations of RSA 466:31 in that 12-month period, but shall have those cases disposed of in district or municipal court. *In the case of a nuisance offense under RSA 466:31, II(a), a third offense for the same dog shall constitute a violation, with a minimum fine of \$100.* In the case of a vicious dog, as described by RSA 466:31, II(g), where its behavior presents a threat to public safety, immediate district court or municipal court proceedings may be initiated in lieu of the civil forfeiture.

AMENDED ANALYSIS

Under this bill, an owner or keeper of a dog running at large shall be charged with a violation for a third such offense which involves the same dog.

SENATOR K. WHEELER: Senate Bill 32 increases the minimum penalties for the third time-offense of a nuisance dog. The current penalties do not make enough of an effort to compensate for the administrative costs incurred. Additionally, the twenty-five dollar penalty is not viewed as a deterrent for owners to control their animals. By making the third offense a violation with the minimum of one hundred dollars, it provides the judges with some leeway in determining the severity of the situation. The amendment clarifies that a violation will only occur on the third offense for the same dog. The Wildlife and Recreation Committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Roberge moved that the rules be so far suspended as to allow a committee report not previously advertised in the calendar.

SB 62, an act, authorizing the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 annual meeting of those towns to April 8.

Adopted by the 2/3 majority.

SB 62, an act, authorizing the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 annual meeting of those towns to April 8.

1997-0016s
08/02

Amendment to SB 62

Amend the title of the bill by replacing it with the following:

AN ACT authorizing the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 and 1998 annual meetings of those towns to April 8, 1997, and April 14, 1998, respectively.

Amend the bill by replacing section 1 with the following:

1 Election Day for 1997 and 1998 Annual Town Meetings. To facilitate voting for 1997 and 1998 annual meetings only, to reduce costs, and to best accommodate the voters, the governing body of a town which has not adopted the official ballot referendum form of meeting, but which is in a school district which has adopted the official ballot referendum form of meeting, may authorize coordination of the 1997 and 1998 town elections with the school district elections on April 8, 1997 and April 14, 1998. The joint elections shall be held at a time and place determined by, and shall be supervised by, the election officials of the town, as provided in RSA 671:26. The town and the school district shall allocate the costs of the joint elections in the same manner as in previous years, or as mutually agreed upon by the governing bodies of the town and school district.

AMENDED ANALYSIS

This bill allows the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 and 1998 annual meetings of those towns to April 8, 1997 and April 14, 1998, respectively.

SENATOR ROBERGE: This bill authorizes the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 and 1998 annual meetings of those towns to April 8, 1997, and April 14, 1998, respectively. This is simply enabling legislation that will allow, but not require, towns to coordinate voting dates. By consolidating voting dates, towns are able to save money on poll operations and promote voter turnout. The Public Affairs Committee recommends that this bill be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

RESOLUTION

Senator Pignatelli offered the following Resolution:

SR 1

A RESOLUTION recognizing the contributions and accomplishments of Paul E. Tsongas, former United States Senator.

SPONSORS: Sen. Pignatelli, Dist 13

ANALYSIS

This senate resolution recognizes the contributions and accomplishments of Paul E. Tsongas, former United States Senator.

97-1115

04/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Seven

A RESOLUTION recognizing the contributions and accomplishments of Paul E. Tsongas, former United States Senator.

Whereas, Paul E. Tsongas, former United States Senator, on January 18, 1997, succumbed to pneumonia after a courageous battle with health problems that had plagued him since he was diagnosed with cancer in 1983; and

Whereas, born on February 14, 1941 and brought up in Lowell, Massachusetts, he was viewed as one of Lowell's finest sons who used the values he learned on the streets of Lowell to eventually lead a bipartisan effort to encourage Congress to balance the federal budget; and

Whereas, his Lowell high school years, while working at the family dry-cleaning shop, were followed by graduation from Dartmouth College, Peace Corps in Ethiopia and the West Indies, Yale Law School, and a congressional internship; and

Whereas, he began his political career in 1968 when he was elected to the city council in Lowell, then ran for Middlesex County commissioner and won in 1972, and in 1974 at the age of 33, continued on to the United States Congress; and

Whereas, throughout his life, he practiced law and remained active in public affairs, speaking out on both local and national issues; and

Whereas, he shattered ideological stereotypes, favoring "liberalism that works," as symbolized by the federally financed urban park that drew high-tech companies to the empty mills along the Merrimack river in his native city; and

Whereas, he won the 1992 New Hampshire primary and, although they frequently disagreed early in 1992, President Clinton eventually agreed with the former senator on many issues and adopted much of the Tsongas platform a year later in his State of the Union address; and

Whereas, in 1992, he joined former United States Senator Warren Rudman as a founding member of the Concord Coalition, a public interest group focusing attention on the nation's economic problems and pushing the need for balancing the nation's books to the forefront of public awareness; and

Whereas, although he was viewed as "an outspoken man and a determined and successful politician who never shied away from tough political realities," he was also "a good listener, a good coalition builder, and you knew he was always working for the public good"; now, therefore, be it

Resolved by the Senate:

That the members of the New Hampshire senate recognize the many accomplishments and contributions of former Senator Paul E. Tsongas; and

That condolences be extended to his wife, Niki, and three daughters, Ashley, Katina, and Molly; and

That copies of this resolution, signed by the president of the senate, be forwarded by the senate clerk to the Tsongas family, to the President

of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to each member of the New Hampshire Congressional delegation, and to the state library.

SENATOR PIGNATELLI: As we are all aware, former U. S. Senator Paul Tsongas passed away last Saturday evening. I wanted to take this opportunity to commemorate his passing because though from Massachusetts, Paul Tsongas was a true New Hampshire friend. I don't want to focus on former Senator Tsongas' membership in the Democratic Party, because quite frankly, that is not what made Paul Tsongas great. In fact, just the opposite is true. It was Paul Tsongas who made the Democratic Party indeed, politics, great. He carried politics to a new level of integrity. Paul Tsongas was an outstanding individual who struck an unusual intangible balance between realism and determination. In September of 1992, just months after Senator Tsongas removed himself from the frenzied presidential race, he and Senator Rudman established the Concord Coalition. A nationwide grassroots campaign to eliminate the federal budget deficit and build a sound economic future. Today, the Concord Coalition is thriving. Throughout this life, Paul Tsongas was a crusader for realism. In his book, titled "The Road from Here" he wrote, "despite the fact that these realities, these irrepressible forces have the capacity to destroy you and me, none of them is unduly hazardous if recognized, respected and, above all, dealt with. We possess the knowledge and the technology to confront the challenges, what we lack is the will, and what we are losing is the time." Though Senator Tsongas is perhaps known for that Yankee determination and that compassionate realism as he called it, Senator Tsongas was not without a sense of humor as some of us perhaps have failed to appreciate. Before I close my remarks, I would like to recite a small portion from an article in the Boston Globe which appeared on Martin Luther King Civil Rights Day. "His successful Senate campaign in 1978 combined an early start, ideologically distinctive positions and a self-deprecating humor. His opponent was Edward W. Brook the only black member in the U. S. Senate, a liberal republican who was popular in Massachusetts but it alienated some conservative republicans. When a Boston Globe columnist called Brooks' challenger, "an obscure first-term congressman," Senator Tsongas protested, "I am an obscure second-term congressman." Thank you for allowing me to make these remarks today. I hope that we, in the Senate, keep the determination and compassionate realism in mind as we proceed through this session.

SENATOR COHEN: Before we vote on that I would like to state for the record that I feel extremely fortunate to have had Paul Tsongas as a personal friend of mine. I knew him for many years, he campaigned for me in 1992. I think that it is important that we remember Paul Tsongas' widespread appeal among democrats and republicans was based on this outspoken philosophy of social liberalism mixed with fiscal responsibility. I think that is something that we must keep in mind as we try to carry on his tradition and philosophy.

Adopted.

RESOLUTION

Senator Barnes moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION**Third Reading and Final Passage**

SB 16, relative to drinking water rules for public water systems.

SB 19, establishing a committee to study the environmental impact of businesses extracting water from the state's resources for sale.

SB 22, relative to health benefit plans sponsored by qualified franchise associations.

SB 30, relative to time of dog licensure.

SB 32, relative to dogs at large.

SB 41, relative to the time for filing requests for a hearing with the department of labor concerning violations of the whistleblower protection act.

SB 42, relative to the authority of the labor commissioner to revoke the license of an employee leasing company for violations of the labor laws.

SB 62, authorizing the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 and 1998 annual meetings of those towns to April 8, 1997, and April 14, 1998, respectively.

SB 107, giving the deputy legislative budget assistant the authority to perform the duties of the legislative budget assistant under certain circumstances.

SB 108, an act authorizing school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 and 1998 annual meetings.

SJR 1, recognizing the town of Brentwood as the county seat of Rockingham county.

Senator J. King moved that the business of the day being completed, that the Senate recess to the call of the chair for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings, receiving house messages, and enrolling bills.

Adopted.

In recess.

Out of recess.

INTRODUCTION OF SENATE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the clerk, Senate Bills numbered 72 - 188 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

97-1029

SB 72, relative to the New Hampshire life and health guaranty association. (Sen. Squires, Dist 12; Insurance)

97-0494

SB 132, establishing a managed care consumer's bill of rights.; (Sen. Russman, Dist 19; Sen. F. King, Dist 1; Sen. K. Wheeler, Dist 21; Sen. Larsen, Dist 15; Rep. M. Fuller Clark, Rock 36; Rep. Dowd, Rock 13; Rep. Cushing, Rock 22; Insurance)

97-0325

SB 168-A, making an appropriation to expand state prison facilities. (Sen. F. King, Dist 1; Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10; Sen. J. King, Dist 18; Rep. Rosen, Belk 7; Rep. Holbrook, Belk 7; Rep. St. Hilaire, Coos 7; Rep. H. Coulombe, Coos 7; Rep. Y. Coulombe, Coos 7; Rep. Mears, Coos 7; Capital Budget)

97-0502

SB 169-FN, relative to a college tuition savings plan. (Sen. Larsen, Dist 15; Sen. McCarley, Dist 6; Sen. Gordon, Dist 2; Rep. Nordgren, Graf 10; Rep. Spear, Straf 5; Rep. McKinley, Straf 2; Rep. M. Fuller Clark, Rock 36; Rep. Snyder, Straf 14; Rep. A. Merrill, Straf 8; Education)

97-0612

SB 170-FN, requiring licensure for out-of-state physicians using telemedicine to diagnose or assist in the treatment of patients in this state on a regular basis. (Sen. K. Wheeler, Dist 21; Sen. Squires, Dist 12; Rep. M. Fuller Clark, Rock 36; Rep. A. Torr, Straf 12; Executive Departments and Administration)

97-0616

SB 171-FN, establishing a consumer advocate position in the insurance department. (Sen. K. Wheeler, Dist 21; Rep. M. Fuller Clark, Rock 36; Rep. French, Merr 3; Rep. Nordgren, Graf 10; Insurance)

97-0633

SB 172, making various changes to the workers' compensation law. (Sen. Blaisdell, Dist 10; Insurance)

97-0781

SB 173-FN, relative to license and registration suspensions. (Sen. Cohen, Dist 24; Transportation)

97-0820

SB 174-FN-A-LOCAL, requiring the state to fully fund the Augenblick formula by FY 1999. (Sen. McCarley, Dist 6; Sen. Hollingworth, Dist 23; Sen. J. King, Dist 18; Rep. Yeaton, Merr 10; Rep. Snyder, Straf 14; Rep. M. Fuller Clark, Rock 36; Education)

97-0871

SB 175, establishing a committee on the feasibility of installing rumble strips before toll booths. (Sen. Roberge, Dist 9; Rep. L'Heureux, Hills 18; Rep. Letendre, Hills 15; Rep. Flora, Hills 15; Transportation)

97-1002

SB 176-FN, relative to late payment of the legacies and successions tax. (Sen. Gordon, Dist 2; Judiciary)

97-1004

SB 177-FN, relative to the liability of prospective adoptive parents for court ordered services. (Sen. Gordon, Dist 2; Rep. J. Brown, Straf 17; Judiciary)

97-1028

SB 178-FN, regulating managed care systems of health care delivery. (Sen. Squires, Dist 12; Insurance)

97-1049

SB 179-FN-LOCAL, creating a New Hampshire local government records management improvement fund. (Sen. Danaïs, Dist 20; Executive Departments and Administration)

97-1069

SB 180-FN-A, relative to the maintenance, enhancement, and rehabilitation of local rural airport service and making an appropriation therefor. (Sen. Fraser, Dist 4; Sen. F. King, Dist 1; Sen. Gordon, Dist 2; Rep. Guay, Coos 6; Transportation)

97-1089

SB 181-FN, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers. (Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Sen. Cohen, Dist 24; Sen. F. King, Dist 1; Rep. Dwyer, Hills 43; Rep. Emerton, Hills 7; Rep. Gagnon, Hills 48; Public Institutions, Health and Human Services)

97-1060

SB 182-FN, relative to the administration, operation, and maintenance of the New Hampshire state veterans cemetery. (Sen. Barnes, Dist 17; Rep. Fields, Hills 18; Rep. Calawa, Hills 17; Rep. Fenton, Hills 24; Public Affairs)

97-1050

SB 183-FN, relative to liquor licenses for a sports/entertainment complex. (Sen. Danaïs, Dist 20; Rep. Avery, Ches 8; Ways and Means)

97-1045

SB 184-FN, relative to leasing state submerged lands. (Sen. Cohen, Dist 24; Sen. Russman, Dist 19; Rep. Merritt, Straf 8; Environment)

97-0857

SB 185-FN, relative to permanent, part-time state employees. (Sen. Larsen, Dist 15; Rep. Dunn, Merr 24; Rep. McCann, Straf 11; Rep. Dodge, Rock 4; Internal Affairs)

97-1047

SB 186-FN, relative to associate justices of the Manchester District Court and Nashua District Court and making an appropriation therefor. (Sen. Podles, Dist 16; Sen. Pignatelli, Dist. 13; Sen. J. King, Dist. 18; Judiciary)

97-1035

SB 187, relative to the penalties for certain court defaults. (Sen. Johnson, Dist. 3; Judiciary)

97-0499

SB 188-FN-LOCAL, relative to emergency hearings for review of arbitrary decisions by local officials on election day. (Sen. Larsen, Dist 15; Sen. Pignatelli, Dist 13; Sen. Hollingworth, Dist 23; Sen. K. Wheeler, Dist 21; Rep. Burney, Merr 14; Public Affairs)

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in which the passage of which it asks the concurrence of the Senate:

HB 160-L, authorizing the governing body of the town of Raymond to order an assessor's plat to clarify property ownership. (Rep. Lovejoy, Rock 12; Rep. Bishop, Rock 12; Rep. Dolan, Rock 12; Sen. Barnes, Dist. 17)

HB 193, to amend the procedures for the election of officers in the Lebanon school district. (Rep. C. Brown, Graf 14; Rep. Akins, Graf 14; Rep. Guaraldi, Graf 14)

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the clerk, House Bills numbered 160-193 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

97-0191

HB 160-L, authorizing the governing body of the town of Raymond to order an assessor's plat to clarify property ownership. (Rep. Lovejoy, Rock 12; Rep. Bishop, Rock 12; Rep. Dolan, Rock 12; Sen. Barnes, Dist. 17; Public Affairs)

HB 193, to amend the procedures for the election of officers in the Lebanon school district. (Rep. C. Brown, Graf 14; Rep. Akins, Graf 14; Rep. Guaraldi, Graf 14; Education)

Recess.

Out of recess.

INTRODUCTION OF SENATE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the clerk, Senate Bills numbered 189-216 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

97-0979

SB 189-FN-LOCAL, authorizing the department of safety to issue resident driver's licenses to certain aliens. (Sen. Rubens, Dist 5; Transportation)

97-0815

SB 190, exempting insurance companies newly located in New Hampshire from having to make payments to the administration fund during their first 3 years in the state. (Sen. Danais, Dist 20; Insurance)

97-0986

SB 191, relative to mental health providers. (Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Sen. Larsen, Dist 15; Sen. Hollingworth, Dist 23; Sen. Johnson, Dist 3; Rep. Dwyer, Hills 43; Rep. O'Keefe, Rock 21; Rep. Manning, Ches 9; Executive Departments and Administration)

97-1037

SB 192-FN-LOCAL, relative to child support, custodial rights, and visitation. (Sen. D. Wheeler, Dist 11; Sen. Podles, Dist 16; Rep. L. Johnson, Hills 40; Judiciary)

97-1046

SB 193-FN, establishing the crime of criminal storage of a firearm. (Sen. Cohen, Dist 24; Rep. W. Riley, Ches 7; Rep. Burling, Sull 1; Judiciary)

97-1059

SB 194-FN-A, establishing the safe youth fund to assist families in providing care and supervision for school-age youth and making an appropriation therefor. (Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Rep. Estabrook, Straf 8; Rep. Walker, Err 24; Rep. M. Smith, Straf 8; Public Institutions, Health and Human Services)

97-1072

SB 195-FN, relative to the sale of firearms and arrests without warrants. Sen. Cohen, Dist 24; Sen. Roberge, Dist 9; Sen. Pignatelli, Dist 13; Rep. Walker, Err 24; Rep. Metzger, Ches 13; Rep. Manning, Ches 9; Judiciary)

97-1090

SB 196-FN-LOCAL, relative to pari-mutuel wagers and defining "resort hotel." (Sen. F. King, Dist 1; Rep. Hill, Graf 1; Rep. Guay, Coos 6; Ways and Means)

97-1106

SB 197-FN, relative to final dispositional orders in child protection cases. (Sen. Gordon, Dist 2; Judiciary)

97-1109

SB 198-FN-LOCAL, relative to the standard for granting of variances by zoning boards of adjustment from dimensional requirements. (Sen. Gordon, Dist 2; Public Affairs)

97-1111

SB 199, requiring all aircraft landing in New Hampshire to be equipped with a crash location signal device. (Sen. Rubens, Dist 5; Transportation)

97-1112

SB 200, relative to certain employer deductions for administrative costs for withholding obligor child support payments. (Sen. Rubens, Dist 5; Judiciary)

97-0385

SB 201-FN-LOCAL, allowing welfare applicants to be checked through the National Crime Information Center and the in-state warrant system and requiring any person applying for an original New Hampshire driver's license to be checked through the National Crime Information Center for wanted persons and the National Law Enforcement Telecommunications Systems. (Sen. Roberge, Dist 9; Public Institutions, Health and Human Services)

97-0421

SB 202 - FN-A-LOCAL, relative to the certification and termination of teachers, school discipline, high school graduation examinations and making an appropriation therefor, relative to school building aid, and making an appropriation for foundation aid. (Sen. Rubens, Dist 5; Sen. Francoeur, Dist 14; Sen. Johnson, Dist 3; Rep. Kurk, Hills 5; Rep. Hunt, Ches 10; Rep. F. Riley, Hills 44; Rep. Noyes, Rock 26; Rep. Thulander, Hills 6; Education)

97-0436

SB 203-FN-LOCAL, adding county correctional facilities to the provisions relating to incarcerated educationally disabled children. (Sen. Gordon, Dist 2; Sen. F. King, Dist 1; Rep. Dolan, Rock 12; Rep. Teschner, Graf 5; Rep. F. Torr, Straf 12; Rep. Durham, Hills 22; Rep. Richardson, Ches 12; Education)

97-0489

SB 205 -FN-LOCAL, establishing a special school district to provide special education for eligible inmates in the state prison system. (Sen. Gordon, Dist 2; Sen. J. King, Dist 18; Rep. Malcolm, Rock 22; Rep. Dolan, Rock 12; Rep. Durham, Hills 22; Rep. Richardson, Ches 12; Education)

97-0619

SB 206-FN-A, relative to seminars conducted by the superior court for persons seeking custody or visitation of minor children and relative to fees charged for such seminars. (Sen. Russman, Dist 19; Sen. Podles, Dist 16; Sen. Blaisdell, Dist 10; Sen. Cohen, Dist 24; Rep. Wallner, Merr 24; Rep. Moore, Merr 19; Rep. David Welch, Rock 18; Judiciary)

97-0667

SB 207 -FN, relative to a digital signature act. (Sen. Rubens, Dist 5; Rep. Hunt, Ches 10; Rep. J. Bradley, Carr 8; Executive Departments and Administration)

97-0946

SB 208-FN-A, establishing the office of the business advocate and making an appropriation therefor. (Sen. Rubens, Dist 5; Sen. Hollingworth, Dist 23; Sen. Whipple, Dist 8; Rep. J. Bradley, Carr 8; Internal Affairs)

97-0993

SB 209-FN, establishing a residential care pilot program and transferring funds for its purpose. (Sen. J. King, Dist 18; Sen. Patenaude, Dist 7; Sen. Blaisdell, Dist 10; Sen. Hollingworth, Dist 23; Sen. McCarley, Dist 6; Rep. Amidon, Hills 9; Rep. L. Foster, Hills 10; Rep. Lynch, Ches 19; Rep. Chabot, Hills 48; Rep. Kenney, Carr 6; Public Institutions, Health and Human Services)

97-1019

SB 210-FN, relative to day care in private homes, local regulation of school-age day care providers, and registration of unlicensed day care providers. (Sen. Podles, Dist 16; Public Institutions, Health and Human Services)

97-1030

SB 211-FN, making technical changes under the motor vehicle financial responsibility laws, insurance fraud laws, and laws regulating managing general agents, reinsurance intermediaries, and third party administrators. (Sen. Squires, Dist 12; Insurance)

97-1039

SB 212-FN, declaring a member of the retirement system on leave under the Family and Medical Leave Act to be in service for purposes of death or disability benefits. (Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Rep. Dwyer, Hills 43; Rep. Dyer, Hills 8; Insurance)

97-1070

SB 213 FN-A, establishing a fund for loans to rehabilitate class III railroads and cog railroads and making an appropriation therefor. (Sen. Fraser, Dist 4; Sen. Gordon, Dist 2; Rep. Guay, Coos 6; Transportation)

97-1077

SB 214 -FN, requiring marine science courses to be offered at Hampton Beach state park. (Sen. Hollingworth, Dist 23; Sen. K. Wheeler, Dist 21; Sen. Blaisdell, Dist 10 Sen. McCarley, Dist 6; Rep. J. Kelley, Rock 22; Rep. Christie, Rock 22; Rep. Malcolm, Rock 22; Rep. O'Keefe, Rock 21; Rep. Cushing, Rock 22; Rep. Francoeur, Rock 22; Education)

97-1114

SB 216 FN-A, relative to pari-mutuel racing and taxes on pari-mutuel pools. (Sen. F. King, Dist 1; Sen. Blaisdell, Dist 10; Ways and Means)

97-0438

SB 204-FN-A-LOCAL, increasing the tobacco tax and specifying uses for the revenue. (Sen. Rubens, Dist 5; Sen. Russman, Dist 19; Sen. Gordon, Dist 2; Sen. Squires, Dist 12; Rep. Hunt, Ches 10; Ways and Means)

97-1081

SB 215 -FN-A-LOCAL, increasing the cigarette tax and appropriating funds for education. (Sen. Larsen, Dist 15; Sen. Hollingworth, Dist 23; Rep. M. Fuller Clark, Rock 36; Rep. Guest, Graf 10; Rep. Burney, Merr 14; Rep. DeStefano, Merr 7; Ways and Means)

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 128, relative to state regulation of participation by foreign banks in the financial markets of New Hampshire. (Rep. Lindblade, Sull 7; Rep. M. Fuller Clark, Rock 36)

97-0156

HB 150-FN, relative to the unlawful alteration of temporary motor vehicle registration plates. (Rep. Hunter, Hills 7; Rep. Fenton, Hills 24; Rep. Emerton, Hills 7)

97-0283

HB 172, extending the reporting date for the committee studying the issue of the use and disposal of sludge or septage. (Rep. Babson, Carr 5)

97-0360

HB 199-FN, to include highways designated as part of the National Highway System within the definition of "federal aid primary system" for purposes of the control of outdoor advertising. (Rep. K. Rogers, Merr 22; Rep. M. Fuller Clark, Rock 36; Rep. G. Chandler, Carr 1)

97-0358

HB 217, Relative to outdoor advertising hearings in the department of transportation. (Rep. Pfaff, Merr 11)

97-0173

HB 224-FN-LOCAL, delaying the start date for the auto emissions inspection program. (Rep. J. Bradley, Carr 8; Rep. Below, Graf 13; Rep. MacGillivray, Hills 21; Rep. McGovern, Rock 35; Rep. Lamach, Merr 3; Sen. Russman, Dist 19; Sen. Pignatelli, Dist 13; Sen. Johnson, Dist 3; Sen. Cohen, Dist 24; Sen. Fraser, Dist 4)

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the clerk, House Bills numbered 128-224 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

97-0084

HB 128, relative to state regulation of participation by foreign banks in the financial markets of New Hampshire. (Rep. Lindblade, Sull 7; Rep. M. Fuller Clark, Rock 36; Banks)

97-0156

HB 150-FN, relative to the unlawful alteration of temporary motor vehicle registration plates. (Rep. Hunter, Hills 7; Rep. Fenton, Hills 24; Rep. Emerton, Hills 7; Transportation)

97-0283

HB 172, extending the reporting date for the committee studying the issue of the use and disposal of sludge or septage. (Rep. Babson, Carr 5; Environment)

97-0360

HB 199-FN, to include highways designated as part of the National Highway System within the definition of "federal aid primary system" for purposes of the control of outdoor advertising. (Rep. K. Rogers, Merr 22; Rep. M. Fuller Clark, Rock 36; Rep. G. Chandler, Carr 1; Transportation)

97-0358

HB 217, Relative to outdoor advertising hearings in the department of transportation. (Rep. Pfaff, Merr 11; Transportation)

97-0173

HB 224-FN-LOCAL, delaying the start date for the auto emissions inspection program. (Rep. J. Bradley, Carr 8; Rep. Below, Graf 13; Rep. MacGillivray, Hills 21; Rep. McGovern, Rock 35; Rep. Lamach, Merr 3; Sen. Russman, Dist 19; Sen. Pignatelli, Dist 13; Sen. Johnson, Dist 3; Sen. Cohen, Dist 24; Sen. Fraser, Dist 4; Environment)

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill sent down from the Senate:

SB 107, giving the deputy legislative budget assistant the authority to perform the duties of the legislative budget assistant, under certain circumstances.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled Senate Bill:

SB 107, giving the deputy legislative budget assistant the authority to perform the duties of the legislative budget assistant, under certain circumstances.

Senator Barnes moved adoption.

Adopted.

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, February 6, 1997 at 10:00 a.m.

Adopted.

Adjournment.

February 6, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

Over at the church we have some committees who feel they have done God's business merely by talking about it and talking and talking and talking. And then others who seem to feel that action can be effective without patient discussion, hard listening and quiet reflection. Both approaches are usually wrong. Too slow or too rushed is often too bad. I bet sometimes it is that way over here, too. Statesmanship – which is your

calling – has to do with finding and following the balance between a rushed agenda on the one hand and carefully thought out inaction on the other. A man named Joseph Roux wrote long ago: there is a slowness in affairs which ripens them and a slowness which rots them.

Rapid Lord of slow results, give us hands and hearts quick and nimble to respond, to reach out and to act in deeds that are always guided and protected by deliberate reflection and patient listening that our speed may not cause us to stumble nor our caution cause us to just sit around and rust.

Amen

Senator Fraser led the Pledge of Allegiance.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

SB 5, relative to investments by trustees of town trust funds in mutual funds. Banks Committee. Vote: 3-0. Ought to pass with amendment, Senator K. Wheeler for the committee.

0083

08/09

Amendment to SB 5

Amend the title of the bill by replacing it with the following:

AN ACT relative to deposits and investments by trustees of town trust funds in credit unions and in mutual funds.

Amend RSA 31:25 as inserted by section 1 of the bill by replacing it with the following:

31:25 Custody; Investments. The trustees shall have the custody of all trust funds held by their town. The funds shall be invested only by deposit in some savings bank or in the savings department of a national bank or trust company in this state, *in some credit union in this state*, or in shares of any building and loan association or cooperative bank, incorporated and doing business under the laws of this state, or in the shares of any federal savings and loan association, located and doing business in this state, or in bonds, notes or other obligations of the United States government, or in state, county, town, city, school district, water and sewer district bonds and the notes of towns or cities in this state; and such stocks and bonds as are legal for investment by New Hampshire savings banks and when so invested, the trustees shall not be liable for the loss thereof; and in ~~[any common trust fund established by the New Hampshire Charitable Foundation in accordance with RSA 292:23]~~ *participation units in the public deposit investment pool established pursuant to RSA 383:22. Shares of open ended mutual funds are also permitted if they are registered with the Securities and Exchange Commission, qualified for sale in the state of New Hampshire in accordance with the New Hampshire uniform securities act of the New Hampshire secretary of state's office, and which have in their prospectus a stated investment policy which is consistent with the investment policy adopted by the trustees of trust funds in accordance with RSA 35:9.* The trustees may retain investments as received from donors, until the maturity thereof. The trustees shall formally adopt an investment policy for all investments made by them or by their agents for any trust funds in their custody. Such investment policy shall be reviewed and confirmed at least annually.

Amend RSA 31:27 as inserted by section 3 of the bill by replacing it with the following:

31:27 Collective Investments. Notwithstanding any statute or rule of law to the contrary, town and city trustees of trust funds may establish, maintain and operate one or more common trust funds, in which may be combined money and property belonging to the various trusts in their care, for the purpose of facilitating investments, providing diversification and obtaining reasonable income; provided however, that said common trust funds shall be limited to the investments authorized in RSA 31:25; provided further, that not more than \$10,000, or more than 10 percent of the fund whichever is greater, of any town or city common trust funds shall be invested under RSA 31:25 in the obligations of any one corporation or organization, excepting deposits in savings banks, or in the savings department of a national bank or trust company in this state, *in credit unions in this state*, or in shares of any building and loan association or co-operative bank, incorporated and doing business under the laws of this state, or in the shares of any federal savings and loan association located and doing business in this state, or in obligations of the United States and of the state of New Hampshire and its subdivisions; or in participation units *in the public deposit investment pool established pursuant to RSA 383:22, or in shares of open ended mutual funds selected by the trustees for investment under RSA 31:25*, and provided further, that the participating contributory interests of said trusts are properly evidenced by appropriate book-keeping entries showing on an annual basis the capital contribution of and the profits and income allocable to each trust.

AMENDED ANALYSIS

This bill allows town trustees to deposit funds in credit unions in the state and to invest in mutual funds if they are registered with the Securities and Exchange Commission, qualified for sale in the state of New Hampshire, and have a stated investment policy which is consistent with the investment policy adopted by the trustees of trust funds.

SENATOR K. WHEELER: Senate Bill 5 will allow trustees of town trust funds to invest in mutual funds that are registered with the Securities and Exchange Commission, qualified for sale in New Hampshire, and have stated the investment policy that is consistent with that adopted by the trustees of trust funds. This bill allows more flexibility for the trustee in investing town trust funds. Trustees will be able to invest in the public deposit investment pool, and it will give them criteria to invest in mutual funds without the liability. The amendment simply adds New Hampshire credit unions to this list of permissible investments. The Banks Committee urges ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senators Francoeur and Wheeler are in opposition to SB 5.

SB 17, restricting check collection charges by debt collection agencies. Banks Committee. Vote: 3-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-0096s

09/01

Amendment to SB 17

Amend the title of the bill by replacing it with the following:

AN ACT restricting check collection charges by creditors and debt collectors.

Amend RSA 358-C:5 as inserted by section 1 of the bill by replacing it with the following:

358-C:5 Check Collection Charges.

I. A creditor involved in a consumer credit transaction or a debt collector designated to collect on a check, negotiable order of withdrawal, share draft, or other negotiable instrument may charge and receive a check collection charge of not more than the greater of \$30 or 10 percent of the face amount of any check, negotiable order of withdrawal, share draft, or other negotiable instrument which has been returned or dishonored for any reason.

II. In the case of a consumer credit transaction, disclosure of a check collection charge made pursuant to paragraph I of this section shall be made in the promissory note or sales finance contract. In the case of debt collectors, notification of imposition of a check collection charge pursuant to paragraph I of this section shall be done by telephone or written notice sent by regular mail to the debtor at the debtor's last known telephone number or address or at the address shown on the check or other instrument. The notice shall state the amount of the check collection charge that has been or will be imposed, and shall state that the debtor is responsible for paying the check collection charge as well as the value of the check or other instrument.

AMENDED ANALYSIS

This bill restricts check collection charges by creditors involved in consumer credit transactions and debt collectors. The bill also requires the creditor or debt collector to give the debtor notice of check collection charges.

SENATOR FRASER: Mr. President, SB 17 will restrict check collection charges to thirty dollars or to ten percent of the face amount of a bad check. When a retailer has a check returned for insufficient funds, that retailer has lost not only the face amount of the check, but has also been stuck with a five dollar or ten dollar fee from the bank for this bad check. Some retailers take it upon themselves to collect the money from the customer, which usually takes time and money away from their business. Many retailers look for check collection agencies for the recovery of the money. The amendment simply modifies the language of the original bill to include creditors involved in consumer credit transactions, along with debt collectors. In addition, this bill would require the collection agency to notify the debtor of the check collection charge. The committee urges adoption as amended. There is much positive support for this bill. There was no opposition.

Amendment adopted.

Ordered to third reading.

SB 12, establishing a Northern New England Interstate Commission on Economic Development. Economic Development Committee. Vote: 5-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: Senate Bill 12 establishes a Northern New England Interstate Commission on economic development that shall not become effective until Maine, New Hampshire and Vermont have adopted it. It is important for the northeastern states to band together to promote economic development, much as nearby towns and regions do in the state of New Hampshire. New Hampshire has many resources to promote, which, when promoted regionally, will only enhance economic development of our state. The committee urges the recommendation of ought to pass. Thank you.

Adopted.

Ordered to third reading.

SB 128, increasing the membership of the university system study committee. Education Committee. Vote: 7-0. Ought to pass with amendment, Senator J. King for the committee.

1997-0132s

04/01

Amendment to SB 128

Amend the bill by replacing sections 1 and 2 with the following:

1 Membership Number Deleted. Amend RSA 187-A:28-a to read as follows:

187-A:28-a University System Study Committee. A permanent study committee [~~of 8 members~~] is hereby established to examine the goals, purposes, organization, and financing of the university system of New Hampshire and to evaluate and make recommendations on the university of New Hampshire, Keene state college, Plymouth state college, and the [~~school~~] **college** for lifelong learning.

2 Two Senate Members Added. Amend RSA 187-A:28-b to read as follows:

187-A:28-b Membership. The committee shall be appointed as follows: [3] **5** senators, including the chairperson of the senate education committee and a member of the senate finance committee, by the president of the senate; 5 representatives, including the chairperson *of the house education committee* and at least 2 other members of the house education committee and a member of the house finance committee, by the speaker of the house of representatives. The chair of the study committee shall rotate biennially between the chairperson of the house education committee and the chairperson of the senate education committee. A member shall only serve while a member of the general court. The members shall not be entitled to any salary but are entitled to reimbursement for mileage and other expenses incurred in carrying out their duties. The committee may hire necessary consultants and professional or clerical personnel.

SENATOR J. KING: Senate Bill 128 simply increases the Senate membership of the University System study committee from three members to five members in the Senate. The current membership is five House members and three Senate members. This bill would equalize our representation. The amendment would clarify that one member of the committee should be the chair of the House Education Committee. The second change would be to replace the "School of Life Long Learning" to the "College of Life Long Learning." The committee recommends this bill as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

SB 142, limiting the authority of the state board of education relative to appeals. Education Committee. Vote: 6-1. Inexpedient to legislate, Senator McCarley for the committee.

SENATOR MCCARLEY: Senate Bill 142 would have limited the ability of the State Board of Education when hearing appeals in that they would only be able to hear appeals regarding procedural issues. The majority of the committee felt that limiting the ability of people to appeal decisions to the state board was not in the best interest of the public. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 95-FN-A, establishing a child day care training and recruitment fund and making an appropriation therefor. Education Committee. Majority Report, Vote 4-3, Ought to pass with amendment, Senator Larsen for the committee. Minority Report, Vote 3-4, Inexpedient to legislate, Senator Rubens for the committee.

1997-0110s

04/01

Amendment to SB 95-FN-A

Amend the bill by replacing section 4 with the following:

4 New Paragraph; "Early Childhood Professional" Defined. Amend RSA 170-E:2 by inserting after paragraph VII the following new paragraph:

VII-a. "Early childhood professional" means a person who has:

(a) Established a commitment to the field of early childhood development or education through direct service of at least 2 years; or

(b) Established a commitment to the field of early childhood development or education by having completed at least 6 credits in early childhood development or education courses.

Recess.

Out of recess.

SENATOR RUBENS: Senate Bill 95 would appropriate the sum of five hundred thousand dollars for the purpose of recruiting and training people so that they can provide the child day care services. During the committee hearing, the Department of Health and Human Services testified that they do provide these services and that the program that recruits and trains people in child daycare has the largest increase in their proposed budget for provider services. They initially testified that they would be increasing their expenditures and appropriation for training services. Further, they felt that this type of matter should be brought forth through the budget process. This bill spends five hundred thousand dollars at a time when the state is probably short by thirty seven million dollars. The minority of the committee recommends the bill as inexpedient to legislate. There is an additional policy matter on it. It is my personal view, that the testimony given, daycare providers earn approximately six dollars per hour and the sum of money results in an approximate fifty percent turnover rate among people in the industry. It is my view that if there is excess or extra money to be provided into the industry by the state, it should be better directed to the actual employees who would then have an incentive to stay on the job and acquire training by virtue of longevity. Thank you very much, Mr. President.

SENATOR LARSEN: All of you received some information on your desk about daycare. There also was an article in Time Magazine indicating how important early childhood development is to the growth of the child's mind and their future success. SB 95 will establish a child daycare training and recruitment fund. It is no coincidence that as we talk in our nation and in our state about welfare reform, that we also find ourselves discussing safe and reliable child care. While parents go to work, we must address the issue of who is watching the kids. We need to decide what kind of training those working with our youngest children must have. It is noteworthy that the same week that the Education Committee of this Senate had the wisdom to look at this bill and to recommend passage. Time Magazine published an article called, "The Daycare dilemma." In

that article it said, "Bad daycare can harm the development of any child. Research has shown that children benefit when caregivers are trained and the ratio of staff to children is high. We all recognize that there are budget constraints this year. We must be careful about our spending priorities. The five hundred thousand dollars required in this bill could help New Hampshire consumers. Families need to know when they place their children in care, that the people watching their children have received at least the minimal amount of training to provide safe and reliable care. This is a small price to pay to assist successful welfare reform in New Hampshire. In New Hampshire, the National Association for the Education of Young Children, published a position statement on state welfare reform. In that statement it said, "If states truly expect to achieve the goal of breaking the cycle of poverty, welfare reform must focus not only on getting parents into the work force, but also providing a strong foundation for early learning and development for their children. If welfare reform does not take this two-generational approach, we will be planning a new welfare reform initiative in about 15 years, as the current generation of children enter adulthood." This bill makes sense for families, for child care workers, welfare reform and the future of New Hampshire. I move with the majority of the committee that recommend this bill as ought to pass as amended.

SENATOR SQUIRES: Mr. President and members of the Senate, I am the sponsor of this bill. It raises significant public policy issues and it raises issues of finance, but it also forces us to look at the issue of early childhood development and what it means. It defines what an early childhood development professional means. It lays out educational standards. It is, in fact, an increase of four hundred thousand dollars because one hundred thousand dollars is already spent in this capacity. I believe, in addition to what Senator Rubens said, that knowing the coming requirements for daycare, unless we start now to adequately prepare people and staff the facilities that are going to be needed to meet the requirements of the welfare reform act, we will be shortsighted. I am strongly in favor of this bill. Thank you.

SENATOR BLAISDELL: Mr. President and members of the Senate, if the Senate in its wisdom agrees with this policy on SB 95, I would hope that it would be sent down to Finance. We have a very capable group on the Health and Human Services end of the budget and we will be receiving that very shortly. We are working on it as we speak. I would hope that you would send it down to Finance and maybe we would be able to accomplish something. Thank you very much.

SENATOR F. KING: I just rise to do a little promotion for one of the programs in the state that does this very, very well and to let my fellow Senators know that the Berlin Technical Community College has a program for training daycare providers. I met with the instructor recently and it is one of their better programs. The interesting thing about it is that the students that come to the vocational program bring their children and that becomes the nucleus of the kids that they work with in the training program. The only thing that the instructor told me was that it is a very expensive program to begin with and to get the program started. I just wanted you to know that there is a well-planned program in the state and it happens to be Berlin, New Hampshire, that is up north.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

Senators Francoeur and Wheeler are in opposition to SB 95-FN-A.

SB 35, including "handicap lift" within the definition of "elevator." Executive Departments and Administration Committee. Vote: 7-1. Ought to pass with amendment, Senator Larsen for the committee.

1997-0050s

01/09

Amendment to SB 35

Amend the title of the bill by replacing it with the following:

AN ACT including "accessibility lift" within the definition of "elevator."

Amend the bill by replacing sections 1-3 with the following:

1 Accessibility Lift Added. Amend RSA 157-B:2, IV to read as follows:

IV. "Elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction; or a stairway inclined lift which moves in guides in an inclined direction; and includes the doors, well, enclosures, means, and appurtenances required for its operation. *The term "elevator" shall include an accessibility lift but does not include a vertical reciprocating conveyor or material lift.*

2 New Paragraph; Definition of "Accessibility Lift". Amend RSA 157-B:2 by inserting after paragraph IV the following new paragraph:

V. "Accessibility lift" means an inclined chair/platform lift or vertical wheelchair lift used to raise and lower a person in a wheelchair or person of limited mobility in or on a car or platform from one level to another and shall meet the requirements of the most recent version of ASME/ANSI-A 17.1 for handicap lifts.

3 Accessibility Lift Added. Amend RSA 157-B:8-a to read as follows:

157-B:8-a Mechanics. An elevator *or accessibility lift* mechanic shall pass an examination given by the commissioner, except in cases in which an elevator *or accessibility lift* mechanic has proven to the satisfaction of the commissioner experience in excess of 5 years within the state. A license shall be issued to the mechanic for a 2-year period. A fee of \$50 shall be charged for the initial examination and license. A license may be renewed every 2 years upon payment of a fee of \$35. Employees of the department of labor shall not be charged for the issuance or renewal of a license. A person who holds a certificate or license of competency as a mechanic ~~[of elevators from a state that has a standard of examination]~~ equal to that of this state may be issued a license without examination upon payment of a fee of \$35. The commissioner may revoke any license for cause shown, after a hearing. The holder of a license under question shall receive 7 days' written notice informing the licensee of the charges and of the time and place of the hearing.

AMENDED ANALYSIS

This bill includes accessibility lifts in the definition of elevator thereby requiring them to meet the same requirements as elevators under RSA 157-B.

This bill was requested by the department of labor.

SENATOR LARSEN: Senate Bill 35 includes accessibility lifts in the definition of elevator by requiring adherence to the same requirements as elevators under RSA 157-B. Currently, only certified elevator mechanics are permitted to repair any kind of a lift. This exclusion threatens small lift repair businesses who are unable to become licensed under current law and forces consumers to pay a higher rate for repairs be-

cause only elevator mechanics are able to work on it. This bill will allow accessibility lift mechanics to repair accessibility lifts, while elevator mechanics can repair either an elevator or an accessibility lift. We did as you might have noticed in the amendment, try to avoid the use of the word "handicap" and replace it with the word "accessibility." I believe that this is a good amendment. This bill was recommended by the Department of Labor. The Executive Departments and Administration Committee recommend this bill as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

SB 60-FN, excluding claims against New Hampshire hospital which are under \$500 from the jurisdiction of the state board of claims. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass, Senator Podles for the committee.

SENATOR PODLES: Mr. President, SB 60 shifts the jurisdiction concerning claims against New Hampshire hospitals that are under five hundred dollars from the State Board of Claims to the Department of Health and Human Services. Most claims involving the Department of Health and Human Services are for patients' articles lost during their stay at the state hospital and are for less than five hundred dollars. A small number of claims involving the state hospital are filed annually. Health and Human Services are fully capable of managing additional claims under its office of administrative hearings that has recently hired an attorney to ensure that hearings resulting from claims filed against Health and Human Services is heard without bias. Under provisions similar to this bill, the Department of Corrections is currently able to hear claims that are under five hundred dollars to ease the burden of the state Board of Claims. The committee recommends unanimously that this bill ought to pass.

Adopted.

Ordered to third reading.

SB 91-FN, relative to the water well board. Executive Departments and Administration Committee. Vote: 5-0 with one abstention. Re-referred to committee, Senator Rubens for the committee.

SENATOR RUBENS: Mr. President, SB 90, during committee many concerns were discussed regarding the proposed amendment that outlined drastic enforcement measures in penalties ranging from two thousand dollars up to twenty-five thousand dollars, amounts that could bankrupt some well drillers. Another concern was that individuals can be found guilty of a felony under RSA 482-B while well drilling companies, often no larger than one employee, can be charged with a misdemeanor. There was also concern regarding rulemaking authority for continuing education granted to the Water Well Board under the original bill language. Also, because the number one violation involving well drillers is failure to become licensed, concerns were raised about disciplinary action listed in the bill that often suggests license revocation. Because of the numerous fundamental concerns regarding the bill and in the interest of producing the best possible piece of legislation, the committee recommends that this bill be rereferred to committee.

Committee report of rereferred is adopted.

Senator Patenaude (Rule #42) on SB 91-FN.

SB 103, establishing a committee to study issues relating to the licensing of child day care centers. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This bill establishes a committee to study issues relating to the licensing of child daycare centers. Currently, child daycare licensing is severely regulated. Too strict regulations place unreasonable burdens on small businesses, the backbone of New Hampshire economy. A review of the licensing procedures is necessary to make licensing less confrontational and more user friendly. The state of New Hampshire should encourage more service providers to do business within the state. The Senate Executive Departments and Administration Committee recommend unanimously that this bill ought to pass.

Adopted.

Ordered to third reading.

SB 4, relative to patient information. Insurance Committee. Vote: 8-0. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-0098s

01/08

Amendment to SB 4

Amend the bill by replacing section 11 with the following:

11 Health Care Provider's Records. Amend RSA 332-I:1 to read as follows:

332-I:1 Medical Records. The medical information contained in the medical records in the possession of any ~~[medical]~~ **health care** provider ~~[licensed or registered under title XXX]~~ shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records, for a reasonable cost, upon ~~[his]~~ request.

AMENDED ANALYSIS

Sections 4 and 12 of this bill declare that a person shall be fully informed of his or her medical condition, health care needs, and diagnostic test results. Sections 13-16 require health insurers to provide new subscribers with a copy of the patients' bill of rights. Section 11 of this bill makes a reference change.

The remainder of this bill amends certain RSA provisions making them gender neutral in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR K. WHEELER: Senate Bill 4 expands the Patient Information Act already in the statute to say that health care providers shall inform patients in addition to the other things that are in statute, as to their diagnostic test results, the manner in which that information will be provided and the expected time interval between the test and the receipt of the results. It also says that this information should be given to the patient, the Patient's Bill of Rights, which already exists. This expanded version shall be given to all patients. It changes a reference from "medical provider" to "health care provider" so that the section is using the same language as other sections. The committee unanimously recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senator Squires (Rule #42) on SB 4.

SB 8, relative to continuing education requirements for workers' compensation claims adjusters. Insurance Committee. Vote: 7-0 with one abstention. Inexpedient to legislate, Senator Danaïs for the committee.

SENATOR DANAÏS: Senate Bill 8 was relative to continuing education requirements for workers' compensation claim adjusters. Senate Bill 13, which you will hear later, deals with exactly the same issue. The committee combined the two bills and you will see the results in SB 13; therefore, the committee recommends that this bill be inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 11, relative to settlements as to the amount of loss in insurance claims. Insurance Committee. Vote: 8-0. Inexpedient to legislate, Senator Squires for the committee.

SENATOR SQUIRES: Mr. President and members of the Senate, as the prime sponsor of SB 11, I introduced the bill so that there would be a vehicle for dealing with the issue of willing and able repairs in terms of home insurance. Since introduction, many parties have discussed the issue, but no resolution has been found; therefore, I have asked the committee to recommend the bill as inexpedient to legislate, which they did.

Committee report of inexpedient to legislate is adopted.

SB 13, relative to continuing education for claims adjusters. Insurance Committee. Vote: 7-0 with one abstention. Ought to pass with amendment, Senator Danaïs for the committee.

1997-0078s

01/09

Amendment to SB 13

Amend the bill by replacing all after the enacting clause with the following:

1 Continuing Education Requirement. Amend RSA 281-A:63 to read as follows:

281-A:63 Claims Adjusters.

I. Any insurance carrier, *self-insured employer or employer group*, or claims adjusting company handling workers' compensation claims in this state shall utilize a claims adjuster licensed in New Hampshire and such claims adjuster shall maintain suitable facilities in this state.

II. Every 2 years, at least [90] **60** days prior to the renewal date of their license, persons holding a license to adjust workers' compensation insurance claims shall certify to the department of insurance that they have completed [a course] **courses** of instruction[~~The course shall provide~~], **preapproved by the insurance department, providing** a minimum of [36] **20** hours, **10 hours of** which shall inform the licensee of the current workers' compensation laws of this state, to enable the licensee to engage in the business of a workers' compensation adjuster fairly and without injury to the public and to adjust all claims in accordance with the workers' compensation laws of this state **and 10 hours of which shall be in any other preapproved multi-line claims adjusters course of instruction.**

2 Continuing Education Requirement. Amend RSA 402-B:5-a to read as follows:

402-B:5-a Continuing Education. Every 2 years, at least 60 days prior to the renewal date of their license, persons holding an adjusters license shall be certified by the insurance department as having completed [30] **20** hours of continuing education instruction. Such continuing education instruction shall be approved by the insurance department. Any credits earned as required by RSA 281-A:63 shall apply to the continuing education requirement of this section. ***If a nonresident licensee's state of residence has mandatory continuing education requirements substantially similar to the requirements of this state, the commissioner may accept certification of the licensee's compliance in the state of residence.***

AMENDED ANALYSIS

Currently, insurance adjusters adjusting workers' compensation insurance claims must complete 30 hours of continuing education in workers' compensation law. Under this bill, such adjusters shall complete 20 hours of continuing education in workers' compensation law and 10 hours in any other preapproved multi-line claims adjusters course of instruction. The bill also reduces the hours of continuing education for insurance adjusters from 30 to 20.

SENATOR DANAIS: Currently, workmen's compensation claims adjusters are required to have 30 hours of continuing education every two years, at least 90 days prior to renewing their license. Senate Bill 8, which we just dealt with, would have reduced the number of hours of education to 15. It would have reduced the time in which the classes had to be finished to at least 60 days prior to renewal. Senate Bill 13 would have left the requirement at 30 hours but would have split the hours between worker's compensation claim education and other multi-line claims adjuster education, while also lowering the finished date to 60 days. The bill as amended before, required 20 hours of education, ten of which would be multi-line and reduces the completion time to 60 days before renewal. As amended, this bill is halfway between the original SB 8 and SB 11. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 58-FN, prohibiting full-time employees of the state from receiving service retirement benefits from the retirement system during service as a full-time employee. Executive Departments and Administration Committee. Vote: 7-0. Inexpedient to legislate, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, what the bill was trying to do was to address double-dipping. I think that most of us have heard the term. My definition, although I don't think that it is statutory in nature, double-dipping means that when an individual is collecting two pensions. Under the terms of SB 58, if a person had served in state government in New Hampshire and they were entitled to a pension and they were collecting those benefits, that person couldn't be called back to serve in another capacity, unless they were willing to suspend their pension benefit during their tenure in state government. The bill didn't receive a great deal of support, except from the sponsors. There was a tremendous amount of testimony in opposition to the bill. The committee was unanimous in reporting the bill out as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senator Gordon in opposition to the motion of inexpedient to legislate on SB 58-FN.

SB 113, establishing a committee to study health care issues related to individuals who are underinsured or without insurance. Insurance Committee. Vote: 8-0. Ought to pass, Senator Fraser for the committee.

LAID ON THE TABLE

Senator Fraser moved to have SB 113, establishing a committee to study health care issues related to individuals who are underinsured or without insurance, laid on the table.

Adopted.

SB 113 is laid on the table.

SB 117, requiring health maintenance organizations to cover individuals. Insurance Committee. Vote: 8-0. Inexpedient to legislate, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, the Insurance Committee voted this bill out as inexpedient to legislate because the subject will be addressed in SB 113. We had quite a hearing in Senate Insurance on this bill. I think that Senator Katie Wheeler can speak to that. We made it inexpedient to legislate.

SENATOR K. WHEELER: I just wanted to elaborate on what Senator Blaisdell just said that the ideas of whether HMO's should take individuals as a complex idea that does require some thought before it is enacted. The Insurance Committee is hoping that this topic will be discussed in any study committee that is established dealing with reviewing health maintenance organizations and health insurance issues. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 146, establishing a committee to study the issue of reducing the number of years of service required to be vested in the retirement system plan from 10 years to 5 years. Insurance Committee. Vote: 6-2. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, of course I would ask that on SB 146, if the policy is agreed to by the Senate, to send it down to Senate Finance, because what this would do is to establish a committee to study the issue of reducing the numbers of years needed for investment in the New Hampshire Retirement System from ten to five. I would like to have some input, I know that the Senate Finance Committee would anyway. I know that the federal requirement for vestment is five years and it is in many other states. The committee recommends that the bill ought to pass, but I would appreciate it if you would send it down to Finance. I would like to get some more material on it and be able to give it to the study committee.

Adopted.

Senator Blaisdell offered a floor amendment.

1997-0148s

10/08

Floor Amendment to SB 146

Amend the bill by replacing section 4 with the following:

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the

committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

SENATOR BLAISDELL: It is a very small amendment and I should have picked up on it when I saw the bill. The floor amendment states that the members of the study committee "shall elect a chairperson from among its members. The first meeting of the committee shall be called by the first named Senate member." The other bill said, "The first House member." I made a mistake in not making sure that the Senate was the member that was in the bill.

Floor amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 90-FN, requiring all proposed legislation affecting independently owned small businesses to include an analysis of the cost of the legislation. Internal Affairs Committee. Vote: 6-0. Ought to pass with amendment, Senator Blaisdell for the committee.

1997-0140s

10/02

Amendment to SB 90-FN

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Fiscal Impact on Small Businesses. Amend RSA 14:44 by inserting after paragraph IV the following new paragraph:

V. All bills and resolutions having an effect on the costs of doing business for any independently owned small business shall be accompanied by a fiscal note stating the legislative budget assistant's determination of the cost of the legislation on small businesses which employ fewer than 100 employees.

Amend the bill by replacing all after section 2 with the following:

3 Fiscal Impact Statements for Proposed Rules; Number of Employees Increased. Amend RSA 541-A:5, IV(e) to read as follows:

(e) An analysis of the general impact of the proposed rule upon any independently owned businesses, including a description of the specific reporting and recordkeeping requirements upon small businesses which employ fewer than [10] **100** employees.

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires all bills or resolutions which affect independently owned small businesses to include a fiscal note prepared by the legislative budget assistant of the cost of the legislation on small businesses which employ fewer than 100 employees. This bill also amends the requirement for fiscal impact statements for proposed administrative rules affecting small businesses by increasing the number of employees to 100.

SENATOR BLAISDELL: Mr. President and members of the Senate, I think that this is a really important piece of legislation. SB 90 would require the legislature budget assistant to prepare a fiscal note for legislation what would financially impact small businesses. This legislation, I think, is important because small businesses, and I am sure that you will all agree with me, are the backbone of the state of New Hampshire. As legislators, we should take a look at what we propose in legislation and what it would do to businesses. Now there are two amendments on

it, one by Senator Fraser and one by Senator Russman, which I certainly agree with. One of the amendments, which was offered by Senator Fraser, where the amendment changes a number of employees in the small businesses that this would affect from 30 to 100. The second amendment, probably the most important of the two, by Senator Russman, because he was not too enthused about this piece of legislation as I remember. This applies to the rulemaking process. The committee recommends this bill as ought to pass. I think that this is a good piece of legislation. Mike Buckley, the legislative budget assistant, spoke to it. It is probably about a \$10,000 cost for both. I think that it is something that we should have. I urge ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

CACR 12, RELATING TO: returning annual legislative sessions to biennial legislative sessions. **PROVIDING THAT:** the general court shall meet biennially. Internal Affairs Committee. Vote: 4-1. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: This bill is a fairly simple bill. It lets us go back to every other year in terms of what we do here in the legislature. It is a great idea. We did it for many, many, many years prior to it being changed. We ought to give the people of our state, the opportunity to vote on it again. Now routinely, this bill passes the Senate and the House has killed the bill, but I think that certainly the Senate needs to let the public know that we are interested in cutting costs. If you look at costs...matter of fact, Senator Wheeler came in and gave a very nice presentation in terms of the costs, and the costs have just escalated incredibly after we went to every year. Now it also seems to me that after having been here for a while, there is nothing that has come up that is that important that it couldn't wait for another year. If there is, we can come back in an emergency session if necessary. So it really isn't needed, and we find that the duplication of bills is enough to drive you out of your mind, in terms of bills that keep coming back here every year. People just keep offering them. I don't know if they don't understand the "N" or the "O" but they just keeping bringing them back. We would perhaps dispatch some of those, at least for a couple of years. So the committee looked at this, and I am not sure what the vote was, it wasn't quite unanimous, but it was close to being unanimous that we go back to the biennial sessions. Hopefully, we will pass this and send it back to the House.

SENATOR PIGNATELLI: I disagree with my colleague, Senator Russman. I oppose a return to biennial sessions. The people of New Hampshire have public business to be done and to be done in an orderly democratic manner that allows full public input and reasonable deliberation on our part. I don't know about you, but my schedule is plenty full trying to attend committee meetings, deal with constituent issues and to have enough time to study proposed bills to educate myself before and not after a vote on an important issue. If we squeeze everything into one year, this process that is already rushed, will be speeded up significantly more. As you know, a good part of the first year of our session deals with the budget. There are other issues to address and perhaps at a slower pace in the second year. We have a full democratic process. The people of New Hampshire have the access and the right to weigh in. Let's not make our legislative process less democratic by clos-

ing shop every other year. In this era, Washington seems to be planning to let us states tackle more and more of society's problems. If we don't want a federal government to be as active as in the past, let us not undermine our deliberative process here on the state level at the same time. I received information this morning that lets me know that in the decade before we went to biennial sessions, there were six special sessions in the five off years and that says something about whether we want to go back to biennial sessions. I urge a no vote on CACR 12.

SENATOR J. KING: I rise in opposition to this bill going back to the old way of doing it. You talk about a workload, is there anyone here that has a lot of time on their hands? If you have, if you have a lot of time to get your work done at the present time, have you seen any bills in here that are nonsense bills? To you, yes, but to that sponsor it is the most important bill in there. That is what you have to look at. What does that sponsor want? You have to give that person the opportunity to provide that bill. He or she has people out in their district that they are representing and they have to have the power to submit a bill that they think is important. Cutting cost; we work for one hundred dollars a year. I would rather cut the one hundred dollars and work for nothing, but still give us the two years of session. We work for one hundred dollars a year and what are we saving? I want to talk about all of the money that we are saving. Baloney. You couldn't get it any cheaper than you have it in New Hampshire. They talk about what it costs to print a bill in here...that keeps your mind off the salary, I guess. What does it cost to print a bill? We hire one person a year, probably, or one every two years, or whatever it may be, the work gets done, one way or the other. My feeling is, we are a citizen legislature and if we are not here, who is going to do it? You know who is going to do it. The governor and the governor's council and the Fiscal Committee. We have a citizen legislature here, let us keep it and put to good use, and let us not waste it by putting this bill through now. The people have already spoken and don't waste their time, please.

SENATOR RUSSMAN: Senator King, I know how rushed you are and I was thinking that this would give you a lot more time off in that off year. Would you believe, and I know how much you want to save money because I have been saving this envelope. This is a card or something that I received in the mail from Mr. John King to Mr. and Mrs. Richard Russman and I know that he likes to save money, but it is stamped "postage due, thirty-two cents." I haven't opened it yet, I thought that I would save it for an opportunity and here it was. Oh, look, it is Christmas spirit here. Well, Senator King, I want to thank you very much for a nice card. Let us see if we can't do something about that.

SENATOR J. KING: I have a complaint to file with the federal government. Those stamps that you don't lick, don't work. Let us change that back to the way they were, but not this bill.

SENATOR BLAISDELL: Mr. President and members of the Senate... Sorry John, I did mention something about nonsense bills, but Fraser got me involved in the interment of dead bodies yesterday, I guess that they took a look at the both of us and thought that we were probably ready to go, but... I mean, boy we got our heads handed to us yesterday by Senator Pignatelli, I will tell you that. I still thought that it was pretty good bill. This, Mr. President and members of the Senate, this is a five billion dollar business that we are in. Those department heads over across the street and up on the hill are tickled pink that this is in

again. They don't want to see you. They don't want any part of you. They want you out of here in a year and don't come back, don't bother me. You know I have been here a few years and I listen to all of these emergency pieces of legislation from Manchester, Senator Podles and a few others, and I listen to, God rest his soul, Laurier Lamontagne a few years back, about something up in Berlin, an emergency thing up there, something about a couple of deer getting run into or something. But we did hear all of these things over the years. But this is a five billion dollar budget. I mean, come here and do your job. How do you know when you put budgets together what it is going to cost to do all of these things that you want to do? Look what we did with HB 32 last time. We need to be here for the two years. It is a citizen legislature, there is no question about it, but they would love to get rid of you people and get you home. You are the key, you are the one. It isn't only the Fiscal Committee, John... and Facilities and things like that, it is this whole legislature, I think, that serves the people well. I think that it is crazy. How many times do you want to send this back to the people anyway? They voted it in. They voted sixty-six and two-thirds to do this, okay? They have done it. So why don't you just leave it alone. Run for the office if you want to stay here for two years. If you don't want to come here in two years, stay home.

SENATOR PODLES: Senator Blaisdell...

SENATOR BLAISDELL: I know, she is still mad at me about those interment bodies.

SENATOR PODLES: You'll be glad someday.

SENATOR BLAISDELL: I will tell you, senator, we just didn't want to hose them down, that is what Senator Fraser said, we didn't want to do that. Go ahead, I am sorry.

SENATOR PODLES: Senator Blaisdell, would you believe, that in 1983 and 1984, we had a biennial session. The costs of legislative expenses were \$8.8 million. But in 1995 and 1996, it was an annual session, the cost was \$18 million dollars. That was an increase of over nine million and it is 106 percent increase. Would you believe that? That is how expensive it is and this is just the legislative expenses?

SENATOR BLAISDELL: Would you believe me, senator, if I told you that if you did a five billion dollar budget that that eighteen million dollars is just the advertising budget for most businesses in the country?

SENATOR PODLES: And would you believe that this comes from Senate Research?

SENATOR FRASER: I voted with the majority on CACR 12. The reason that I support the bill is that I don't know if it is a good idea to be here every year or not. I think that we should leave it up to the electorate again to make that determination, and as long as that is the way that it is going to happen, it has to be a referendum article if this CACR should pass and pass the House, it would be a referendum article in the next year or two. I think that they have the right to make that decision.

SENATOR GORDON: I didn't intend to speak, but I would like to say that, I, again, just to reiterate what Senator Fraser just said, I think that we ought to let the people decide. I don't think that we should decide. I have to tell you, I work full time, and I have heard a lot today about a citizen legislature. Look around, do you think that this is a cross section

of the citizenry in New Hampshire? I am not sure that it is. I served in the House of Representatives before I came to the Senate. When I was there, I don't know what it is now, but the average age was 58 years old. Is that a cross section of the citizens of the New Hampshire? I will tell you that there are a lot of people who can't serve here because they don't have the time. They don't have the ability to serve here. I happen to think that if we had biennial sessions, I am not sure it is the case, but I think that if we had biennial sessions, there is a greater chance for more people, average citizens, to serve in these bodies. I support the biennial sessions. Thank you.

SENATOR J. KING: Senator Gordon, would you believe, that before 58, I think the average age in the House was 65? So we have come a long way.

SENATOR GORDON: I would believe that, Senator King.

SENATOR COHEN: I don't know where this is coming from, the people in my district and I thought the people throughout New Hampshire wanted to keep government closer to the people. I think that there is a move to make sure that the government is responsive to the people, is acting for the people. People call me to get in touch with me throughout the year looking for legislation to help them with certain problems. This would move in the opposite direction. We have talked about frivolous legislation, maybe this is frivolous legislation.

Senator Barnes moved the question.

Adopted.

Question is on the adoption of CACR 12.

A roll call is required.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

The following Senators voted No: McCarley, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 16 - Nays: 8

Adopted by the necessary 3/5 vote.

SB 2, relative to the responsibilities of members of the clergy as mandated reporters and providing for privileged communications under the child protection act. Judiciary Committee. Vote: 6-2. Inexpedient to legislate, Senator Cohen for the committee.

LAI D ON THE TABLE

Senator Cohen moved to have SB 2, relative to the responsibilities of members of the clergy as mandated reporters and providing for privileged communications under the child protection act, laid on the table.

Adopted.

SB 2 is laid on the table.

SB 26, preventing recovery by a nonsupporting parent in a wrongful death action filed on behalf of the nonsupported child. Judiciary Committee. Vote: 8-0. Ought to pass with amendment, Senator Hollingworth for the committee.

1997-0095s
09/01

Amendment to SB 26

Amend the title of the bill by replacing it with the following:

AN ACT preventing recovery by a nonsupporting parent in a wrongful death claim or action on behalf of the nonsupported child until child support arrearages are paid in full.

Amend the bill by replacing section 1 with the following:

1 New Section; Wrongful Death Claim or Action on Behalf of Nonsupported Child; Recovery Limited. Amend RSA 508 by inserting after section 18 the following new section:

508:19 Wrongful Death Action on Behalf of Nonsupported Child; Recovery Limited. No parent shall receive any portion of an award of damages or an out-of-court settlement resulting from any claim or action for wrongful death on behalf of such parent's dependent child, until such parent has paid in full any child support arrearages owed.

AMENDED ANALYSIS

This bill prevents a parent who failed to support a dependent child from recovering damages or a settlement resulting from a wrongful death claim or action on behalf of such child, until such parent has paid in full any child support arrearages owed.

SENATOR HOLLINGWORTH: The committee voted unanimously on SB 26 as ought to pass with amendment. Basically, the bill prevents a nonsupportive parent from recovering in a wrongful death claim until all arrears in child support are paid in full. Some people may question, as we did, why a nonsupporting parent would be entitled to benefits from the child's wrongful death, especially when he or she has not played a role in the child's life. Age-old inheritance laws, however, stipulated that nonsupportive parents are still the natural parent and would inherit as any parent would. When a child dies without a will, the nonsupportive parent would still be entitled to half of the settlement. Without getting into the sticky area of law, we felt that the nonsupportive parent should at least be required to fully support any of the necessary child support obligations. The amendment would restrict any recoveries until all of the support payments are paid and there are no arrears. We also felt that the original bill was too restrictive in that it said that there would be no recovery by anyone, and that would mean whether you had ever been behind at all, and no matter how small you had been behind. So the bill was amended to correct that problem. The Judiciary Committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 88-FN-L, returning municipal ordinance fines to the municipalities. Judiciary Committee. Vote: 6-2. Ought to pass, Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The committee moves that this bill be ought to pass by a vote of 6 to 2. Basically, it is a bill to restore fairness for cities and towns. Right now, all of the money in municipal ordinance fines goes to the state. If this bill passes, it would return municipal ordinance fines, all but \$15 of administrative fees to the local communities. For several years this bill has been battered around the legislature

in and out of study committees. Previously, the objection was that the state would lose revenues overlooking the fact that these fines assured and collected on the local level; however, by establishing a \$15 administrative fee, the state would be compensated for its expenses and the money would be returned to the local level. It is time that the municipal governments received the money that they are due, that is why the Judiciary Committee recommended that the Senate pass this legislation.

SENATOR RUBENS: The bill as proposed, shows no estimate of fiscal impact. I wondered if you could provide that estimate?

SENATOR HOLLINGWORTH: There was a fiscal impact and it has considerably changed. Well, we did have one in the committee. It is considerably less, and it will go to Finance. I am sure that they will receive the fiscal impact if you don't have it in your notes, but there was one during the committee. I am not sure the exact figure, but it did considerably drop from its original amount before the \$15 administration fee was there.

SENATOR RUBENS: Somewhere approaching one million dollars annual fiscal impact on the state?

SENATOR HOLLINGWORTH: That is what it says right now. Hopefully, when it is in Finance, they will be able to look at the money and maybe we can even adjust that administration fee even further.

SENATOR WHIPPLE: Just to answer Senator Rubens' question, the previous bills of this type, the fiscal impact fee was around four million dollars or over. This new fiscal note is \$951,000.

SENATOR DELAHUNTY (In the Chair): Senator Whipple, would you please give us those figures again, please?

SENATOR WHIPPLE: The amount is \$951,000.

SENATOR DELAHUNTY (In the Chair): To be returned?

SENATOR WHIPPLE: To be returned to the municipalities.

SENATOR DELAHUNTY (In the Chair): And to give back to the state?

SENATOR WHIPPLE: That is it, I guess. It is not in the state, it is in the court system.

SENATOR DELAHUNTY (In the Chair): I have a fiscal note that was just presented to me that I am going to ask the clerk to pass out, and then after everyone gets to look at it, we will call for a vote on the bill, but I just want you all aware of it. It is substantially different than what Senator Whipple's figures are. So I would like you all to take a look at it before we vote on it. I intend on sending the bill to Senate finance.

SENATOR WHIPPLE: I received this from the court system about an hour before the bill was heard. I had a copy, and I believe that Senator Podles also received a copy and it said \$951,000.

SENATOR DELAHUNTY (In the Chair): I believe that, senator, it is just that the information that I was just presented is substantially different, and I want you all to be aware of that.

SENATOR GORDON: Very briefly, I was one of the dissenting votes and I just wanted to express my concerns about the bill. As was indicated earlier, this is actually a biennial bill that comes to us every couple of years, ever since I have been in the legislature, in its various forms, and

it has been defeated in various years. I certainly don't want to deprive the municipalities of any money, but my recollection was, that when we adopted the unified court system, at that point in time, what we did was, we elected to have municipal fine monies become revenues of the state. The state, itself, accepted the responsibility for the court system, which was being financed at that point in time, by municipal revenues, and in exchange they received the fine revenues. I understand that there is a representation that that wasn't perhaps the intention, but that was my understanding at the time. Perhaps I am mistaken, but I think that there is in fact, a serious concern here regardless of what the correct fiscal impact might be. We are looking at a million dollar impact at a minimum, or roughly a million dollar impact on the state revenues. Based upon that as a matter of policy, and not as strictly as a matter of money, but as a matter of policy, I voted against the bill and would encourage other people to do that as well.

SENATOR F. KING: It is my recollection that when we went to the unified court system, the counties were no longer responsible for the cost of operating the clerk's office in the Superior Courts. That resulted in millions of dollars in savings throughout the state to property taxpayers because obviously the county funds that were used to fund the court system come from property taxpayers from the county tax. So the trade was to say that, well part of the trade was to save the money, well I know that in my county, where I was the administrator, we saved a considerable amount of money each year when we no longer had to support the court system's administrative costs. So, yes, there may be a loss of revenue to the communities, but the fact is, it is the communities, the taxpayers who pay the county tax, and they no longer have to do that.

SENATOR HOLLINGWORTH: This bill is going to have to go to Finance, as we know, because we have two conflicting fiscal notes; and certainly, this is not the note that we saw in Judiciary. So I think that if we could have a chance to look at it and determine what the fiscal note is, it would be helpful to us. I am sorry that this information didn't come to us beforehand and instead of on the floor here. It does present a different picture, and I recognize our budget situation that we are in now being over fifty million that we have to face in old debt, before we even start the new debt. My concern is that with the policy of returning the money to the communities, the courts did not appear in opposition to this bill. They did in other years when this bill came up, but they did not come this time, so clearly, to me, that says exactly that they felt that with a \$15 administration fee, that it was appropriate for the money to then go back to the cities and towns. Now if it has to be \$20 instead of \$15 to make sure that it is revenue neutral, that is something that we could talk about in Finance. But clearly, as far as the municipal governments were concerned, they did not feel that there was a deal made, that they were going to lose those fines and fees from those local ordinances that they had. I did not hear any testimony in opposition to this bill at all. Senator Barnes moved to have SB 88, returning municipal ordinance fines to the municipalities, laid on the table.

A division vote is requested.

Yeas: 11 - Nays: 12

The motion to have SB 88 laid on the table failed.

SENATOR RUBENS: On two counts I rise in opposition to SB 88 that I think that the Senate ought to vote on it now. 1) I think that it is ab-

solutely irresponsible for the Senate to evolve a political "wish list" here and send it off to Finance to do the dirty work. I don't think that is responsible. 2) I strongly support in favor, money going back to cities and towns; however, knowing that we have very limited sums of money, I prefer in every case, if we can identify sources of money to send it back on a more targeted basis, rather than done on a non directive basis as this bill would do; therefore, I rise in opposition to SB 88.

SENATOR RUSSMAN: I rise in opposition to the bill. Again, while it is probably a nice thought, I mean the next thing that you could say is well, if there is a speeding charge in a particular town, why don't we just send the money back from the speeding charge to the town, never mind the municipal ordinance, where do you draw the line in terms of that? I mean I practice in the court system on virtually a daily basis, and I see costs escalating there in terms of security and metal detectors and things that we never used to have before we went to an integrated court, and the bailiffs and the number of judges has increased substantially, the population and so on and so forth. So I think that while it is always a nice thought to do those types of things, for the Senate, I think that it is probably fiscally irresponsible, in terms of the methodology, to give the money back because it is a municipal ordinance. If the police officer or what have you, has some other type of thing or perhaps if it is an animal control type thing, are you going to send it back for that? I mean where do you draw the line here? I think that it is unrealistic to do this given the fact that the state is facing a huge deficit, and I think that it does not show fiscal responsibility to do that at this time.

SENATOR WHIPPLE: This bill allows \$15 to go to the unified court system to pay their costs, so there is no loss to the courts. The problem is the loss to the municipality. The municipality buys the cruiser, twenty-five or thirty thousand dollars, hires a police officer for thirty to thirty-five thousand dollars, hires a prosecutor to prosecute the case and then the money goes to the state. If the state wants to pay for the cruiser or the police officer and for the prosecutor, then I would say that they should have the money. If they don't want to pay the bill, why should they get the harvest from that bill? I believe that is why this money should be returned to the municipalities, the ones who earned it, the ones who did the work for it and the ones who need it. Thank you.

SENATOR PATENAUDE: I rise in opposition. I would like to make the analogy that we don't allow many of our state departments to keep their administrative fines, but they go into the general fund. If Senator Whipple thinks that it is appropriate that some of the municipalities do deserve this, a portion of this money, then I don't think that it should be addressed in this vehicle. Thank you.

Recess.

Out of recess.

Question is on the committee report of ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 10, relative to funds for prearranged funerals or burial plans. Public Affairs Committee. Vote: 4-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-0035s
01/02

Amendment to SB 10

Amend the bill by replacing section 1 with the following:

1 Transfer Procedure Clarified. Amend RSA 325:45 to read as follows:
325:45 Funds to be Deposited. All moneys paid during a person's lifetime to any individual, firm, association, partnership, or corporation engaged in performing funeral services by such person or by someone in such person's behalf under an agreement that services be performed or merchandise be delivered in connection with the disposition of such person's body after the person's death shall be deposited by the payee within 30 days after receipt in a separate account in a bank, trust company, savings institution, licensed insurance company, or bonded, registered broker-dealer in this state in the name of the payee as mortuary trustee for the person for whose benefit the payment was made, and shall be held in such account together with any interest accrued. Nothing in this section shall be construed to prevent transfer of such funds to another such bank, trust company, *credit union or* savings institution[; ~~licensed insurance company, or bonded, registered broker-dealer~~] by merger or consolidation or by operation of law. *A mortuary trustee shall provide evidence of the original deposit to the payor within 30 days after deposit into the separate account and shall provide evidence of any subsequent transfer of funds, as permitted by this section, to the payor within 30 days after effecting such transfer of funds. A copy of a written receipt or statement of deposit issued by the bank, trust company, savings institution, licensed insurance company, or bonded, registered broker-dealer, shall be sufficient as evidence of deposit or transfer for the purposes of this section.*

SENATOR ROBERGE: Mr. President and members of the Senate, SB 10, this bill aims to clarify the procedure to be followed for funds that are deposited for prearranged funerals or burial plans. Currently, there are no means to monitor the actions of the funeral home directors in regard to verification of deposits. This bill enables the public's trust in funeral homes to be upheld by placing the responsibility of deposit and transfer notification with the mortuary trustee, thus, removing any temptation of false or inaccurate reporting by funeral homes.

Amendment adopted.

Ordered to third reading.

SB 18, restricting the sale of certain items and requiring sellers at flea markets to have sales receipts for articles they are selling. Public Affairs Committee. Vote: 5-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-0034s
01/09

Amendment to SB 18

Amend the title of the bill by replacing it with the following:

AN ACT relative to the sale of certain items at flea markets.

Amend RSA 358-Q:1, II and III as inserted by section 1 of the bill by replacing them with the following:

II. No person, except an authorized manufacturer's or distributor's representative, shall sell, offer for sale, or knowingly permit the sale at any flea market any of the following items:

(a) Infant formula or food manufactured and packaged solely for sale and consumption by a child under 2 years of age.

(b) Drugs, as defined in RSA 146.

(c) Medical devices used in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans, provided, that medical devices shall not include durable medical equipment.

III. All sellers shall have on their person and available for inspection a written sales receipt for the products listed in paragraph II that are being sold at flea markets showing the source from which such product was obtained.

AMENDED ANALYSIS

This bill restricts the sale of certain items at flea markets. The bill also requires sellers to have available for inspection a written sales receipt for these items which are being sold at flea markets.

SENATOR PATENAUDE: This bill would restrict the sale of certain items at flea markets. Under this bill, infant food for children under two years of age, drugs as defined in RSA 146 and medical devices, not including durable medical equipment such as wheelchairs and crutches, can be sold at flea markets only by an authorized manufacturer and distributor's representative. That representative must make available for inspection, a sales receipt showing the source from which the product was obtained. The bill addresses a public safety concern relating to the proper handling and to the sale of infant formula and drugs beyond their respective products expiration date. Flea markets can be havens for products that have been stolen from retail stores. By extending the paper trail requirements for these specific items at flea markets, this bill will aid in the containment of shoplifting. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 27, allowing municipalities to assess property semi-annually in April and October. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-0112s

09/08

Amendment to SB 27

Amend the title of the bill by replacing it with the following:

AN ACT allowing municipalities to take inventories of property as often as state law allows property tax bills to be issued.

Amend the bill by replacing all after the enacting clause with the following:

1 Semi-Annual Inventory. Amend RSA 76:2 to read as follows:

76:2 Property Tax Year. The property tax year shall be April 1 to March 31 and all property taxes shall be assessed on the inventory taken in April of that year. *Upon approval of its governing body, a municipality may take additional inventories as often as state law allows property tax bills to be issued.*

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill allows a municipality to conduct inventories of property as often as state law allows property tax bills to be issued.

SENATOR ROBERGE: Mr. President and members of the Senate, SB 27 is enabling legislation. It is essential for high growth rate communities that may use the additional revenue to stabilize the tax rate. Buildings tend to spring up soon after April 1 assessment; thus, forcing established taxpayers to subsidize access to schools, fire departments, the police department, for those who are not yet paying taxes. Proponents testified that additional assessment does not create additional work, but merely consolidates work that will eventually need to be done. The committee recommends unanimously that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 49, clarifying certain procedures under the lead paint law. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-0093s
01/09

Amendment to SB 49-FN

Amend RSA 130-A:5, I as inserted by section 4 of the bill by replacing it with the following:

I. The commissioner ~~[may]~~ **shall** investigate cases of lead poisoning in children reported under RSA 141-A whose blood lead level meets or exceeds 20 micrograms per deciliter of whole ~~venous~~ blood, **as reported on 2 separate tests except that a blood lead level may be designated as elevated by the attending physician when the level reported meets or exceeds 20 micrograms per deciliter on the first venous test. With such a declaration, a second test shall not be required.** The commissioner may also conduct investigations when there is reason to believe that a lead exposure hazard, as defined in RSA 130-A:1, XVI(b) and (d), for a child exists. Such investigations shall include, but not be limited to:

(a) Requiring additional information and periodic reports from the child's health care provider, the owner or owner's agent of a leased or rented dwelling or dwelling unit occupied by a child, the owner or operator of any child care facility attended by the child, and any lead inspector or lead abatement contractor involved in lead ~~[base substance abatement]~~ **hazard reduction** at the child's dwelling, dwelling unit, or child care facility.

(b) Inspections of dwellings or dwelling units or of any child care facility, and testing environmental samples. Issuing orders requiring the ~~[abatement]~~ **reduction** of lead exposure hazards from a leased or rented dwelling or dwelling unit and from a child care facility, or issuing a notice to the owner of a dwelling or dwelling unit.

SENATOR ROBERGE: Mr. President and members of the Senate, SB 49-FN, this bill was requested by the Department of Health and Human Services to clarify procedures under the existing lead paint law. Senate Bill 49-FN eases the burden of property owners to comply with lead laws, while still protective of children. Changes to existing law create more reasonable time frames within which to abate lead violations and to conduct cleanup, permit variances and requirements and allow unlicensed individuals to conduct low risk abatement activities with the approval of a licensed abatement contractor. Lead is a hazardous ele-

ment. Our laws must be kept current as we learn more about the effects of lead exposure. The committee recommends that this bill ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 70, establishing a committee to examine campaign finance reform. Public Affairs Committee. Vote: 6-0. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-0044s

05/02

Amendment to SB 70

Amend the bill by replacing section 4 with the following:

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 7 days of the effective date of this section. Three members of the committee shall constitute a quorum.

Amend the bill by replacing section 6 with the following:

6 Effective Date. This act shall take effect upon its passage.

SENATOR K. WHEELER: Due to the complex and delicate nature of campaign finance reform, and because some form of campaign finance reform legislation appears to be needed now, this bill establishes a committee to provide a thorough review of options and will enhance the possibility of ultimate passage of some sort of reform. As we know, it is very difficult to pass campaign finance reform in an election year, which is the second year of our biennium, and so, in the interest of moving this process forward this year, an amendment was offered to move the first committee meeting to within seven days of the bill's effective date. The act does take effect upon passage. That means that we would be able to study it this year. The committee recommends unanimously that this bill pass as ought to pass as amended.

Amendment adopted.

Senator K. Wheeler offered a floor amendment.

1997-0187s

05/02

Floor Amendment to SB 70

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study all aspects of New Hampshire campaign finance laws and shall include in its consideration, but shall not be limited to, the following issues:

I. The campaign financing and reporting laws of other states; especially Maine and states which have had campaign finance laws in place for a period of time sufficient to allow for an assessment of their effectiveness, impact, and practicability.

II. Issues surrounding public financing.

III. Limits on contributions and expenditures, the amounts of such limits, and the rationale for different proposals on this issue.

IV. The potential ramifications and impact of decreasing the period during which campaigning for public office may be conducted.

V. Elimination of private contributions.

VI. The issue of what money constitutes a campaign contribution, what money constitutes a gift to a candidate who has not yet officially filed his or her candidacy, and the distinction between, and ramifications of, those designations.

The issue of whether surplus campaign funds constitute campaign contributions or gifts.

SENATOR K. WHEELER: In the Public Affairs Committee, we heard a bill, SB 127 that will be coming to the floor at some future date. It made us realize that there is a lot of confusion that exists about what is a campaign contribution versus what is a campaign gift and how are these reported? So we are proposing a floor amendment that will fold the provision of SB 127 into this bill. As you can see in the floor amendment in front of you what we are adding to SB 70 are VI, and VII, VI. The issue of what money constitutes a campaign contribution, what money constitutes a gift to a candidate who has not yet officially filed his or her candidacy, and the distinction between, and ramifications of, those designations. The issue of whether surplus campaign funds constitute campaign contributions or gifts. We had the secretary of state in the committee and we are all confused. We feel that this is worthy of study; therefore, we are proposing this floor amendment. Thank you.

SENATOR D. WHEELER: Senator Wheeler, I just want to be clear as to who "we" is? Is this supported by the full committee, and why it wasn't a committee amendment, and why it is a floor amendment, and did all of the subject matter in this amendment have a public hearing?

SENATOR K. WHEELER: Yes. I believe that I can answer those questions and if I can't, I will call on Senator Patenaude to respond. We had a discussion of SB 127 and Senator Patenaude went to the secretary of state to discuss it. In the course of that, she brought the secretary of state, after we had held the public hearing on SB 127, to our meeting in Public Affairs, our executive session to discuss these issues with us. The desire for this amendment arose out of these actions that we took at that executive session and it was the entire Public Affairs Committee that felt that we would like to have this amendment. We feel that these issues about campaign contributions versus gifts and the distinctions are an appropriate topic in any study of campaign finance reform, so we feel that this is germane and it did have a public hearing, but perhaps Senator Patenaude would like to elaborate on that.

SENATOR LARSEN: What I understand is that the committee decided not to pass a bill that I brought before the committee, but rather to send it to study. The insertion of what I understand is VI and VII is the areas that my bill addresses, SB 127, that I believe will be on the Senate floor at another date. The idea is that we are going to study what a contribution is. During the campaign, I think that a lot of us who were not aware, and many people are not aware, that when they receive contributions, they can receive contributions in any amount, as long as they are not spending in excess of five hundred dollars during their campaign. They do not have to report. TAPE INAUDIBLE You can receive thousands of dollars and never make a public disclosure of where your support is coming from. That is my understanding of the problem and that is what SB 127 was to address. I am going to support this floor amendment with the understanding that the committee that studies campaign finance reform recognizes the whole issue of reporting of contributions in a campaign to be a problem. We have to not only report our expenditures, but in the interest of full disclosure, we need to reveal our

sources of contributions whether or not we are spending that money. So, in my opinion, it is not an issue of gifts versus contributions, it is an issue of what are we going to disclose and how up front are we going to be with the public about where our sources of contributions come from. I therefore, will hope, that the committee will take this issue up and trust that in bringing it up right now, that the committee will in fact, look at this issue in addition to the other issues of campaign finance reform.

SENATOR RUBENS: The committee, I think, did recognize that there is a loophole in the law, and the senators on the committee who are aware of that loophole, have voluntarily reported in order to close the loophole on a voluntary basis.

SENATOR PATENAUDE: The loophole is that you might not have to report it in a timely fashion, you have to report all gifts or campaign contributions, at some point. So if it is just not a campaign contribution, you would deduce that it was a gift, so it would have to be reported once a year on the gift form.

Floor amendment adopted.

Ordered to third reading.

SB 110-L, allowing the Coos county convention to revise the compensation of the county sheriff. Public Affairs Committee. Vote: 7-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: This bill allows the Coos county convention to revise the compensation of the county sheriff for the biennium ending December 31, 1999. This bill allows the convention to shift from a part-time sheriff's staff to a full-time sheriff's department if they so choose. The committee recommends unanimously that this bill ought to pass.

Adopted.

Ordered to third reading.

SB 115-L, allowing a receiving district to withdraw from an area school district. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-0119s

04/02

Amendment to SB 115-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study issues relating to the withdrawal of a receiving district from an area school district.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Purpose; Membership. A committee is established to study issues related the withdrawal of a receiving district from an area school district. The committee shall consist of the following members:

I. Three members of the senate, appointed by the senate president.

II. Three members of the house of representatives, appointed by the speaker of the house.

2 Report. The committee shall issue a report including plans for implementation, along with recommendations for proposed legislation necessary for implementation, to the senate president, the speaker of the

house, the senate clerk, the house clerk, the governor, and the state library no later than November 1, 1997.

3 Meetings; Compensation.

I. The first-named senate member shall call the first meeting within 30 days of the effective date of this act, and the committee shall elect a chairperson.

II. Members of the committee shall serve without compensation, except for mileage reimbursement at the legislative rate when attending to the duties of the committee.

4 Effective Date. This act shall take effect upon its passage.

1997-0119s

AMENDED ANALYSIS

This bill establishes a committee to study issues relating to the withdrawal of a receiving district from an area school district.

SENATOR ROBERGE: Mr. President and members of the Senate, under authorized regional enrollment area plans, receiving towns are forced to provide schools and staff to accommodate students from sending towns when there is no guarantee or requirement under the existing law that mandated students from sending schools attend a particular receiving school; however, the current law is designed to protect small towns that may not have any other place to send their students. Due to the sensitive nature of this bill, and in the interest of producing the best possible piece of legislation, the committee recommends, unanimously, that this issue be referred to a study committee.

Amendment adopted.

Ordered to third reading.

SB 152, relative to the city of Manchester budget cycle. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-0118s

08/09

Amendment to SB 152

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study issues related to allowing the city of Manchester to adopt a 2-year budget cycle.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study issues related to allowing the city of Manchester to adopt a 2-year budget cycle.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate appointed by the senate president.

(b) Three members of the house of representatives appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the issues involved in allowing the city of Manchester to implement a 2-year budget cycle. The committee shall seek input from relevant state agencies and other sources re-

garding the positive and negative impacts of a 2-year budget cycle.

4 Chairperson; Quorum. The first meeting of the study committee shall be called by the first-named senator. The first meeting shall be held within 45 days after the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house, the governor, the senate clerk, the house clerk, and the state library on or before November 1, 1997.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to study issues related to allowing the city of Manchester to adopt a 2-year budget cycle.

SENATOR ROBERGE: Mr. President and members of the Senate, our biennial budget cycle would allow the city department employees to spend less time developing the budget and more time on running their departments. Expanding the budget cycle to a two year cycle, would provide more efficient city government. It would encourage better services to citizens and would save taxpayer dollars. The committee recommends this bill as ought to pass as amended, so that a study committee can explore the possibility of expanding this bill to cover any municipality. This bill only affects Manchester, currently.

Recess.

Out of recess.

SENATOR F. KING: We are going to study an issue for the city of Manchester? I heard earlier that it was going to be for everybody?

SENATOR DANAIS: The bill, as it came forward, when the city of Manchester sat down with the budget director, a lot of other towns and municipalities thought that it was a very good idea. They wanted to be included in the legislation. There was not time to do that and the budget director for the city of Manchester was going to have a study committee to see if they can incorporate other cities and municipalities to do this. The city of Manchester thought that it was a good idea. That is the main reason for the study committee is to incorporate other communities.

SENATOR F. KING: But the language speaks only to the city of Manchester?

SENATOR DANAIS: That is right, because it was their bill. So the city of Manchester is going to have a study committee this summer and is going to get together with the budget director of the state of New Hampshire, and then they are going to incorporate new legislation to come back next year that will be more universal to let all communities go to a biennial budget if they so select to.

SENATOR F. KING: I suggest, respectfully, that members of this study committee be from Manchester?

Amendment adopted.

Ordered to third reading.

SB 133, relative to the task force on perinatal chemical dependency. Public Institutions, Health and Human Services Committee. Vote: 5-0. Ought to pass with amendment, Senator Podles for the committee.
1997-0101s

01/02**Amendment to SB 133**

Amend RSA 132:19, I(b) as inserted by section 2 of the bill by replacing it with the following:

(b) Two members of the senate appointed by the president of the senate.

Amend RSA 132:19, I(1) as inserted by section 2 of the bill by replacing it with the following:

(1) A midwife, appointed by the New Hampshire chapter of the American College of Nurse Midwives.

Amend the bill by replacing section 5 with the following:

5 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

The remainder of this act shall take effect 60 days after its passage.

SENATOR PODLES: SB 133 amends the name of the task force on perinatal chemical dependency to the "perinatal Alcohol Tobacco and other Drug Use Task Force. This is down to better reflect the committee's focus. This committee which was established in 1992 continues to meet regularly to address concerns with chemical abuse as it regards Pregnant women and their infants. Increasing the membership from 16 to 21 would include a wider range of experts to examine these issues. The amendment makes three simple technical changes to the bill. 1) It corrects the appointing organization for the midwife member. 2) It eliminates the words "or designee" with regard to the Senate member appointment. 3) It makes effective upon passage, section four of this bill to repeal the respective repeal of the task force. The Public Institutions, Health and Human Services Committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 64-FN-A, exempting motor fuel used for automobile racing from road toll taxation. Ways and Means Committee. Vote: 5-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAIS: In recent years, with the increased racing activity in the state, it has become increasingly difficult for the Department of Safety to keep track of the road toll tax. There have been a number of opinions by the Justices of the Supreme Court relative to this tax, and the Justices have determined that the tax, as paid, is not a sales tax, but it is rather a user tax for the use of the New Hampshire roads. This fuel is taxed at the point of the retail sale. In order to follow the existing practice, each team owner would have to file a form with the state of New Hampshire to claim their rebate and this is where the difficulty arises. In discussion with the Department of Safety in trying to devise a better system for returning the tax to distributors that is collected for the fuel sold at our tracks, the department felt that the problem would be best solved by exempting this fuel from taxation completely. The Department of Safety assumes the average tax collected in the calendar year 1995 and 1996 to be fifteen thousand dollars, which will represent the tax loss for the fiscal year 1998 and each year thereafter. The effective date of this act is July 1, 1997. The committee recommends that the bill ought to pass.

Adopted.

Ordered to third reading.

SB 87, relative to permissible agreements between beverage manufacturers and vendors and beverage wholesale distributors. Ways and Means Committee. Vote: 6-0. Ought to pass, Senator Johnson for the committee.

SENATOR JOHNSON: Currently, the law does not allow for a holding company to have a limited partnership with the beverage wholesale distributor, like other manufacturers, Anheuser-Busch Companies, Inc. would like to lend money to a qualified person, if and when, conventional borrowing cannot be obtained. In the case of Miller High Life, the distributors are able to borrow money from Philip Morris; however, since Anheuser-Busch Company, Inc. is a holding company, it theoretically would be violating the three-tier system. This bill is specifically designed to prohibit any long-term ownership by a beverage manufacturer. The partnership agreement is limited to ten years; however, most agreements have been fulfilled and concluded within seven to eight years. Miriam Luce, the commission of the Liquor Commission testified at the hearing that all of the people, at every level of this three-tiered market, are in agreement that this law is a good thing for this state. The committee on Ways and Means recommends that this bill be voted ought to pass.

Adopted.

Ordered to third reading.

SB 29, establishing a pet overpopulation trust. Wildlife and Recreation Committee. Vote: 6-0. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-0057s

01/02

Amendment to SB 29

Amend the bill by replacing section 1 with the following:

1 New Chapter; Pet Overpopulation Trust. Amend RSA by inserting after chapter 437-A the following new chapter:

CHAPTER 437-B

PET OVERPOPULATION TRUST

437-B:1 Pet Overpopulation Trust Created.

I. There is hereby created a trust having a distinct legal existence separate from the state and not constituting a department of state government, to be known as the pet overpopulation trust. The administration and operation of the trust shall be vested in 5 trustees for 3-year terms of office as follows:

- (a) Three public members, appointed by the governor.
- (b) A member of the senate, appointed by the president of the senate.
- (c) A member of the house of representatives, appointed by the speaker of the house.

II. The initial term of the first public member appointed shall be one year. The initial term of the second public member appointed shall be 2 years. The initial term of the third public member appointed shall be 3 years. The terms of the legislative members shall be coterminous with their term of office.

III. Trustees shall receive no salary for the performance of their duties, but shall be reimbursed by the trust for reasonable expenses carrying out their duties as trustee. A trustee may be removed for cause by the appointing official.

437-B:2 Powers and Duties of Trustees. After reimbursing the state treasurer for any administrative expenses incurred and reimbursing

trustees for their expenses, the trustees shall expend the trust funds exclusively for programs to reduce the population of stray and unwanted dogs and cats in New Hampshire and to encourage the owners of dogs and cats to have them permanently sexually sterilized. The trustees shall enter into grants for contracts with eligible applicants according to standards and rules that they shall adopt and publish pursuant to their own procedures. In awarding grants, the trustees shall consider the recommendations of the pet overpopulation trust advisory committee established under RSA 437-B:5. "Eligible applicants" means municipal corporations or other units of local government or nonprofit corporations which have obtained tax-exempt status under section 501(c)(3) of the United States Internal Revenue Code.

437-B:3 Pet Overpopulation Trust Fund Established. There is hereby established in the office of the state treasurer a fund to be known as the pet overpopulation trust fund. The pet overpopulation trust established in RSA 437-B:1 may accept public sector and private sector grants, gifts, donations, and appropriations of any kind to further the goals of the trust. In addition, all funds appropriated to the department of agriculture, markets, and food for the animal population control program under RSA 437-A but not expended for that purpose in any year shall be deposited in the pet overpopulation trust fund. Public sector appropriations shall be nonlapsing and shall be continually appropriated to the trust.

437-B:4 Investment of Funds. Moneys deposited into the fund established in RSA 437-B:3 may be invested by the trustees of the fund. Income earned from such investments shall be returned to the fund, provided, however, that the trustees may use such investment income to defray the costs of administering this chapter.

437-B:5 Pet Overpopulation Trust Advisory Committee.

I. There is hereby created a pet overpopulation trust advisory committee to make recommendations to the trustees of the trust established in RSA 437-B:1 relative to the awarding of grants. The advisory committee shall consist of the following members:

- (a) The commissioner of health and human services, or designee.
- (b) The commissioner of agriculture, markets, and food, or designee.
- (c) A representative of the New Hampshire Veterinary Medical Association, appointed by such organization.
- (d) A representative of the New Hampshire Federation of Humane Organizations, appointed by such organization.
- (e) A representative of the City and Town Clerks' Association, appointed by such organization.

(f) A public member who is a dog owner familiar with issues concerning pet overpopulation, appointed by the governor.

(g) A public member who is a cat owner familiar with issues concerning pet overpopulation, appointed by the governor.

The terms of the commissioners shall be coterminous with their term of office. All other members shall serve 3-year terms, except that the initial term of the representative of the New Hampshire Veterinary Medical Association shall be one year. The initial term of the representatives of the New Hampshire Federation of Humane Organizations and the City and Town Clerks' Association shall be 2 years. The initial term of each public member shall be 3 years. Members shall receive no salary or other compensation for the performance of their duties under this chapter and shall not be reimbursed by the trust for any expenses incurred in the performance of their duties.

SENATOR K. WHEELER: SB 29 creates a Pet Overpopulation Trust for the purposes of receiving private funds and public funds if necessary to

aid pet overpopulation related issues. Currently, the state's spay neutered program is paid for through a two dollar surcharge assessed on the licensure fee for dog owners. Despite the fact that dog owners are exclusively responsible for funding this program, cat owners are most frequently benefiting from it. Unfortunately, there is not a mechanism for cat owners to contribute financially to the program, as cats are not licensed in New Hampshire. There have been a number of feline friends who have shown an interest in contributing to the spay neuter program; however, they are reluctant to donate their money directly into the general fund. The trust fund created in SB 29 provides cat equity with regard to the spay neuter program by creating an opportunity to raise money from cat owners. It also gives them a mechanism or the two dollar fees, that are paid on dog licensure to lapse into the trust; therefore, it keeps faith with the dog owners. The amendment adds an advisory council that calls for a specific representation from a variety of organizations who represent animal and public health related issues. The Wildlife and Recreation Committee unanimously recommend this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 31, relative to rabies certificates. Wildlife and Recreation Committee. Vote: 7-0. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: Senate Bill 31 declares that if a valid rabies certificate is on file with the appropriate town clerk, the owner of the dog does not have to produce such verification at the time of licensure. Currently, dog owners are having to show proof of their animal's vaccination each year when they license their pet; however, under legislation passed a few years ago, town clerks are required to keep a copy of the vaccination records on file. Senate Bill 31 simply declares that a dog owner does not have to produce such verification if it is already on file at their town clerk's office. The Wildlife and Recreation Committee recommend this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 51-FN-L, relative to the proper sheltering of dogs. Wildlife and Recreation Committee. Majority report, Vote: 4-3, Re-referred to committee, Senator Roberge for the committee. Minority report, Vote: 3-4, Inexpedient to legislate, Senator D. Wheeler for the committee.

SENATOR D. WHEELER: I am sure that the three sponsors of this bill who sit on the committee have the best intentions and really love the animals, but we feel that this bill goes too far. The first thing that this bill does, is that it establishes a building code for dog houses. We feel that the majority of our constituents have good judgment and know how to house their dogs. It also would require you to change your dog house every time you changed the size of your dog or changed your dog, which we feel is very unreasonable. The minority of the Wildlife and Recreation Committee believes that SB 51 is completely unnecessary because existing animal cruelty laws more than sufficiently address the issue of proper sheltering for dogs. Additionally, this bill and amendments to this bill, offered during the public hearing, would permit the taking of your dog, your property, and we believe that if you didn't have the proper dog

house to code, that this is truly unconstitutional seizure of property. Bearing this in mind, we felt that it was important to file a minority report of inexpedient to legislate on SB 51. We do not feel that rereferring this bill to committee would do any good. We don't want the bill back, we don't believe that it can be fixed. This is a road that we do not want to go down. We would ask for your support for inexpedient to legislate.

SENATOR ROBERGE: Mr. President and members of the Senate, when the Wildlife and Recreation Committee heard testimony at the public hearing on SB 51, there clearly were a number of people opposing views on this bill; however, all of those testifying, including those in opposition, requested that this bill be given an opportunity to be studied further. They all felt that if they were provided some time, a compromise could be achieved. Additionally, since animal control officers and investigators came to the legislature asking for guidance and clarification on the laws that we ask them to enforce, we felt that this issue certainly needs to be addressed. Keeping both of these points in mind, the majority of the committee therefore voted to re-refer this bill to committee for further study.

SENATOR RUSSMAN: Am I to understand that this is to have a study committee? Is that what this is for?

SENATOR ROBERGE: To re-refer.

Question is on the majority report of re-refer to committee.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Patenaude.

The following Senators voted Yes: McCarley, Roberge, Blaisdell, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Whipple, D. Wheeler, Squires, Pignatelli, Francoeur, Larsen, Podles, Barnes, J. King, Russman, Danais, Delahunty.

Yeas: 6 - Nays: 18

The motion to re-refer to committee failed.

Senator D. Wheeler moved inexpedient to legislate.

Inexpedient to legislate is adopted.

SUSPENSION OF THE RULES

Senator Barnes moved that the Rules of the Senate be suspended to allow a report without the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

HB 160, authorizing the governing body of the town of Raymond to order an assessor's plat to clarify property ownership.

Adopted by the necessary 2/3 vote.

First and Second Reading

HB 160, authorizing the governing body of the town of Raymond to order an assessor's plat to clarify property ownership. Public Affairs Committee. Ought to pass.

SENATOR BARNES: This bill authorizes the governing body of the town of Raymond to order an assessor's plat to clarify property ownership at

the Green Hills Mobile Home Park. In short, the original subdivision plan is failing. There are 290 mobile homes in this park. It was laid out in 1965. Due to the discrepancies between deeds and properties, present owners who wish to sell their homes are prohibited from doing so; as a result, those owners who cannot sell their land have requested tax abatements from the town of Raymond, thus increasing the tax burden of the remainder of the citizens of Raymond. The Public Affairs Committee recommends unanimously that this bill ought to pass. I would like to add that this was on the study committee all last summer, it went before the Municipal and County Government Committee, it had a lot of conversation on it and it was brought out on the House floor last Wednesday on their consent calendar. It is over here now, and Senator Roberge was nice enough to have that go before her committee yesterday, so that we could bring it in here today and suspend the rules to allow it as we have talked about. We have until February 18, 1997 for the governor to sign this. I am trying to set up an appointment with the governor's legal counsel so that we can let her look at this and see if she can get this to the governor and signed before February 18, 1997, which is the last day that we can change a warrant article in the town. That is the bottom line. People right now, there are a lot of folks that cannot sell their property and it is a crying shame. It is not their fault. It was somebody's fault that is probably long dead and buried.

SENATOR BLAISDELL: Senator Barnes, if we were in biennial sessions, what would you do?

SENATOR BARNES: Well, since this is the first year, we would take care of it like I hope that we do today. We wouldn't have to worry about it next year.

Adopted.

Ordered to third reading.

ANNOUNCEMENTS

SENATOR PIGNATELLI (Rule #44): Mr. President and members of the Senate, Senator Larsen and Senator Rubens and I have written you a letter which should be in your mailboxes out here, but mine was stuck under my news clip, so you might not see it, but we want you to look at. It is encouraging you to enroll and participate in New Hampshire's Walk-A-Mile Program. Senator Larsen and Senator Rubens and I did this when it was first proposed a year and half ago. We found it to be a valuable experience. We were teamed up with someone who was living on AFDC, and we agreed to, for one month, live on an AFDC food budget. It was an eye opening experience for me and it gives me new insight when we talk about AFDC now and people who are on welfare and will be participating in the new welfare reform in this state. So I would encourage you to sign up for this and to be an active participant. Thank you, Mr. President.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that we recess for House messages, and Enrolled Bill Reports and amendments.

Adopted.

LATE SESSION

CACR 12, RELATING TO: returning annual legislative sessions to biennial legislative sessions. **PROVIDING THAT:** the general court shall meet biennially.

Question is on ordering to third reading.

A roll call is required.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

The following Senators voted No: McCarley, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 16 - Nays: 8

Adopted by the necessary 3/5 vote.

Third Reading and Final Passage

SB 4, relative to patient information.

SB 5, relative to deposits and investments by trustees of town trust funds in credit unions and in mutual funds.

SB 10, relative to funds for prearranged funerals or burial plans.

SB 12, establishing a Northern New England Interstate Commission on Economic Development.

SB 13, relative to continuing education for claims adjusters.

SB 17, restricting check collection charges by creditors and debt collectors.

SB 18, relative to the sale of certain items at flea markets.

SB 26, preventing recovery by a nonsupporting parent in a wrongful death claim or action on behalf of the nonsupported child until child support arrearages are paid in full.

SB 27, allowing municipalities to take inventories of property as often as state law allows property tax bills to be issued.

SB 29, establishing a pet overpopulation trust.

SB 31, relative to rabies certificates.

SB 35, including "accessibility lift" within the definition of "elevator."

SB 60-FN, excluding claims against New Hampshire hospital which are under \$500 from the jurisdiction of the state board of claims.

SB 64-FN-A, exempting motor fuel used for automobile racing from road toll taxation.

SB 70, establishing a committee to examine campaign finance reform.

SB 87, relative to permissible agreements between beverage manufacturers and vendors and beverage wholesale distributors.

SB 103, establishing a committee to study issues relating to the licensing of child day care centers.

SB 110-L, allowing the Coos county convention to revise the compensation of the county sheriff.

SB 115-LOCAL establishing a committee to study issues relating to the withdrawal of a receiving district from an area school district.

SB 128, increasing the membership of the university system study committee.

SB 133, relative to the task force on perinatal chemical dependency.

SB 152, establishing a committee to study issues related to allowing the city of Manchester to adopt a 2-year budget cycle.

HB 160, authorizing the governing body of the town of Raymond to order an assessor's plat to clarify property ownership.

CACR 12, RELATING TO: returning annual legislative sessions to biennial legislative sessions. **PROVIDING THAT:** the general court shall meet biennially.

Senator J. King moved that the Senate be in recess until Thursday, February 13, 1997 at 10:00 a.m. for the sole purpose of receiving House messages and Enrolled Bill Reports and amendments.

Adopted.

In recess.

Out of recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 160, authorizing the governing body of the town of Raymond to order an assessor's plat to clarify property ownership.

Senator Barnes moved adoption.

Adopted.

In recess.

Out of Recess.

LATE SESSION

Senator Barnes moved that the business of the day being completed, that the Senate now adjourn until Thursday, February 13, 1997 at 10:00 a.m.

Adopted.

Adjournment.

February 13, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

A budget is nothing less than your code of ethics written in numbers. The budget that you and the House and the governor begin to work on together today is your primary piece of social legislation, your statement of your values, beliefs and what right conduct is. More than anything else you do while you are here, it is the budget that will shape and affect the spirit, the soul, of our state and its people – every one of us. So as you get ready to go ahead here, let me pray with you.

Lord of all legislators, You appropriated for Solomon, the politician, sufficient wisdom to know how to expend the great wealth that came his

way, so make these twenty-four wise as well and remind them as they fret over appropriations, revenue and expenditures that this budget is their work of ministry, and may they never forget who it is that they are really working for. Amen

Senator Rubens led the Pledge of Allegiance.

Senator J. King is excused for the day.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 121, authorizing state-chartered financial institutions to engage in certain insurance activities. Banks Committee. Vote: 7-0. Ought to pass with amendment, Senator Fraser for the committee.

197-0145s

09/01

Amendment to SB 121

Amend the introductory paragraph of RSA 394-A:9 as inserted by section 1 of the bill by replacing it with the following:

394-A:9 Insurance. Pursuant to the authority granted under this chapter, a state-chartered financial institution may engage in the business of insurance to the same extent that a national bank or an affiliate or subsidiary thereof is permitted to engage in such business under Section 92 of the National Bank Act subject to the following conditions:

Amend RSA 394-A:9, II as inserted by section 1 of the bill by replacing it with the following:

II. The financial institution or affiliate or subsidiary shall obtain a license from the insurance department pursuant to uniform rules adopted by the department which provide for supervision of activities, including without limitation, advertising, marketing, referrals and sales practices, performed by persons pursuant to such licenses; which require regular examinations of such licensees including reasonable assessments for such examinations; and which assure compliance with federal and state consumer protection laws, rules, and regulations, including the federal anti-tying provisions of 12 U.S.C. section 1972.

Amend RSA 394-A:9, V as inserted by section 1 of the bill by replacing it with the following:

The provisions of paragraph I-IV shall not be construed to limit the authority of any credit union to engage in the business of insurance pursuant to the provisions of RSA 394-B:52-a.

SENATOR FRASER: Mr. President, on March 26, 1996 the United States Supreme Court decided the case of Barnett Bank of Marion County versus Nelson for the insurance commissioner, unanimously holding that the former statute that prohibited banks from selling insurance, was preempted by federal law, section 92 of the National Bank Act as interpreted by the counsel of the currency. Senate Bill 121 is a re-acted piece of legislation that would allow state chartered banks to sell insurance to the same extent that the federal chartered banks are permitted to do so in section 92. This only allows banks to act as agents and not as a principal or as an underwriter; underwriting is especially prohibited. National banks have been given the power to sell insurance policies located in towns where the population is five thousand or less. New Hampshire RSA 394 now allows state chartered banks to obtain the same powers as national banks except with regard to insurance powers.

This bill will bring parity between state and federally chartered banks in the area of insurance sales in such small towns. This bill provides for regulation and rulemaking authority by the insurance department. To reflect any ongoing changes in the federal level as they work out the meaning of section 92, Barnett and any other further laws passed by the congress of the United States. Senate Bill 121 will stimulate healthy competition in New Hampshire, and in turn, this will positively affect pricing and accessibility for the consumer and insurance will be more available to populations that are now under served. With the passage of this bill, Mr. President, state chartered banks will not be forced into becoming nationally chartered banks to stay competitive. The Banks Committee unanimously urges ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senators Francoeur, F. King, Rubens and D. Wheeler in opposition to SB 121.

HOUSE MESSAGE

The House of Representatives is ready to meet with the honorable Senate in Joint Convention for the purpose of hearing the budget message by Her Excellency, Governor C. Jeanne Shaheen.

RESOLUTION

Senator Barnes moved that the Senate be in recess to meet in Joint Convention with the House of Representatives to hear the budget message by Her Excellency, Governor C. Jeanne Shaheen.

Adopted.

In recess for Joint Convention.

Out of recess.

SB 135, adopting the uniform "transfer on death" security registration act. Banks Committee. Vote: 4-0. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: Senate Bill 135 adopts a uniform transfer on death security registration act that will make it possible to register a beneficiary or beneficiaries on a security account. Currently, the transfer upon death of a security account differs from an IRA account or other tax deferred accounts in that the principle of an IRA has the ability to designate a beneficiary. This bill simplifies the transfer upon death of a security account and avoids probate intervention by allowing the designation of beneficiaries. Senate Bill 135 was drafted based upon a uniform securities act developed and adopted in 1989 by the National Conference of Commissioners on Uniform State Laws. Other states currently have some form of this legislation in practice. The Banks Committee urges ought to pass.

Adopted.

Ordered to third reading.

SB 139, authorizing banks to invest trust funds in bank-affiliated investments. Banks Committee. Vote: 3-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAÏS: Senate Bill 139 comes as a response to the findings of a study committee Model Trust Laws established last session. The

committee examined ways to make New Hampshire a more attractive place to create trust accounts. This bill will allow banks acting as trustees to invest trust funds and investments affiliated with the bank. Senate Bill 139 establishes several safeguards against any conflicts of interest in this form of investing by requiring the bank to provide written disclosure to the person who receives the account statements as to the intent of the bank to exercise its authority in this investment before doing so. Prohibiting any double-dipping or of investment fees, and does not reduce the fiduciary responsibility to the bank. The trustee remains liable for any loss in the trust. Mutual funds are fast becoming a popular investment vehicle. New Hampshire may be at a competitive disadvantage without this bill. Currently, forty-five other states allow this procedure. The Banks Committee urges ought to pass.

Adopted.

Ordered to third reading.

SB 44, establishing a committee to study the building of a state-owned liquor store in the city of Keene. Capital Budget Committee. Vote: 7-0. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, SB 44 establishes a committee to study the building of a state owned liquor store in the city of Keene. The store currently occupies rental space. It came out in the testimony that I think, that this is the third location that this store has had in the last four or five years. The Keene store represents \$4.3 million in business and is the ninth largest store in the state. This bill would establish the study committee to look at the pros and cons of a state owned facility. The committee reports its findings and recommendations for the proposed legislation on or before November 1, 1997. Mr. President, the bill was unanimously adopted by the committee and we urge its support by the Senate.

Adopted.

Ordered to third reading.

SJR 2, relative to federal funding under the Individuals with Disabilities Education Act. Education Committee. Vote: 5-2. Ought to pass with amendment, Senator Rubens for the committee.

1997-0208s

05/01

Amendment to SJR 2

Amend the resolution by replacing all after the title with the following:

Whereas, when the Individuals with Disabilities Education Act was passed, Congress promised to fund 40 percent of the costs of special education;

Whereas, the single largest contributor to escalating property taxes in New Hampshire during the past decade has been the unfunded mandates under the Individuals with Disabilities Education Act; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That Congress either appropriate the promised 40 percent of the funding for special education; or that Congress make such changes in the Individuals with Disabilities Education Act that will provide sufficient funding to New Hampshire so that it may continue to provide quality special education services to its students; and

That copies of this resolution, signed by the president of the senate and the speaker of the house be forwarded by the house clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire congressional delegation.

AMENDED ANALYSIS

This senate joint resolution urges Congress to either appropriate the promised 40 percent of the funding for special education or make changes in the law that will provide sufficient funding.

SENATOR RUBENS: This bill urges congress to provide the promised forty percent of the funding for the Individuals with the Disabilities Education Act that is the level that congress originally said that they would fund at. The program is an important one and the states need this funding to be able to continue to provide these important programs. The committee recommends this bill as ought to pass as amended. The amendment includes the word "change" because the committee feels that congress, in re-authorizing IDA, should among other changes, make changes to reduce the amount of litigation spent on the issue of special education; and secondly, increase the amount of flexibility in the system. For example, to allow a greater continuation of services to be provided to reduce the incentives that cause parents to argue for coding of their children when they might need services that are less costly than that. Thank you very much.

SENATOR BLAISDELL: Senator Rubens, I think that this scares me a little bit and I think that it probably scares some other people. What do you want to change?

SENATOR RUBENS: I just recounted two examples. Our own state Department of Education, also in a report, an exhaustive two-year report, has recommended that there be changes in the system. The system is acknowledged by no one as perfect in its present form. No one.

SENATOR BLAISDELL: I would agree that it is not perfect, but when you get out into the public and you say "change" they are afraid that it is going to do away with something and certainly that is not something that you want to do.

SENATOR RUBENS: That is clearly not the committee's intent to imply that we are doing away with the quality services that are in place now.

SENATOR BLAISDELL: Thank you.

SENATOR LARSEN: I think that you will notice committee vote on that was five to two, and the Education Committee sat through a lot of hearings and people coming in who were concerned in fact, about the word "change" being in this resolution. All of the committee agreed that the funding request through congress ought to be that congress fully find at the forty-percent level, special education costs; however, the language in the bill and the language in the subsequent amendment, concerned a number of us and a large number of the general public enough for us to say no to this. If this bill had just said urging congress to fully fund special education, the idea of funds, we would have agreed, but the fact that this says that it gives congress the option to change the law, we have concerns about it, and I think that a lot of people in the state of New Hampshire have equal concerns, and so that is why you will see that vote is not unanimous.

Amendment adopted.

Senator McCarley offered a floor amendment.

1997-0129s

04/09

Floor Amendment to SJR 2

Amend the resolution by replacing all after the resolving clause with the following:

That Congress appropriate the promised 40 percent of the funding for special education; and

That copies of this resolution, signed by the president of the senate and the speaker of the house be forwarded by the house clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation.

AMENDED ANALYSIS

This senate joint resolution urges Congress to provide funding to the states to meet requirements under the Individuals with Disabilities Education Act.

SENATOR MCCARLEY: This amendment specifically addresses the points that Senator Larsen pointed out earlier. I offer this amendment because I believe that we must not suggest to the federal government, that it can solve the special education crisis by defining a way of who is entitled to special education services. I don't believe that was the intent of the resolution, but clearly, the testimony that we heard on SJR 2 confirmed that is the fear, and we as the legislative body should not support that fear with words that do nothing to put the concern aside. As chair of New Hampshire's sixth largest school district, I know full well the challenge that our school districts and local property taxpayers face in meeting the federal mandate of special education services. Too often, the local property taxpayers are asked to choose between meeting the federal mandate and supporting educational services for all of our students. That challenge, however, shrinks to insignificance when compared to those challenges confronting the children who need those services. The real issue is that we need the financial support promised in the mid 70's when the legislation was originally passed. The Individuals with Disability Act has forced us to meet the needs of children who through no fault of their own, were dealt an unfair hand, and who in the past, were too often left out of the picture because it was too hard to deal with those needs. Since the 70's we have struggled to meet those needs. I recognize that we have not succeeded in many areas. Our successes and failures need discussion. That discussion will take place and it should, but it should happen with all of the parties at the table and not fearful of losing something. This resolution suggests that some may lose if the money is not forthcoming. I would argue that is not the message that we should be sending. The fiscal, mental and emotional challenge facing special needs' children, does not recognize boundaries of state, counties, city or towns, in a country as blessed as ours. It is right that the federal government should provide substantial assistance to such children. We must send a clear message to Washington that only by providing the long promised, but never delivered substantial assistance, can we meet our obligation. We must not, however, even hint that these children can again be left behind; I therefore ask for your support for this amendment. Thank you.

SENATOR RUBENS: I would like to speak against the amendment. Again, Commissioner Twomey testified before the Education Committee, that the

system was in need of changes. All the people came in registering concerns about the word "change" acknowledged, and no one testified that the system as it is, is not in need of change, not a single person testified as such. Everyone acknowledges that. This legislature must send an unambiguous signal to the congress, which is going to be in charge with dealing with this very difficult issue to do both of the required things. 1) Provide the promised forty-percent funding, that is number one. 2) The other difficult part of the process, that is to change the system to, just for example, reduce the amount of wasteful litigation in that system that diverts resources from helping children and puts it into the pockets of lawyers. This is one change that is unambiguously required. It is going to be very tough for congress to do. If we don't even have the nerve, here in the Senate, to advise them to do it, then how on earth are they going to have the nerve to make the difficult changes that are required? Thank you.

Floor amendment failed.

Ordered to third reading.

SB 76, limiting the liability of school districts operating facilities for skateboarding, rollerblading, or rollerskiing. Education Committee. Vote: 7-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: During the last legislative session, the legislature enacted legislation that would limit the liability of municipalities if they provided centralized facilities for skateboarding, rollerblading or rollerskiing. This legislation simply expands that limitation on liability to school districts.

Adopted.

Ordered to third reading.

HB 193, to amend the procedures for the election of officers in the Lebanon school district. Education Committee. Vote: 7-0. Ought to pass, Senator Rubens for the committee.

SENATOR RUBENS: This bill amends the procedures for the election of officers in the Lebanon school district only. These amendments are necessary so that the procedure for the election of officers in that district doesn't conflict with the recently adopted official ballot referendum voting procedure. This bill is unanimously endorsed by the Lebanon contingent in the House. The committee recommends the bill as ought to pass. Thank you.

Adopted.

Ordered to third reading.

SB 24, relative to prescriptions for certain controlled drugs. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass, Senator Podles for the committee.

SENATOR PODLES: Senate Bill 24 updates the language of RSA 318-B:9 section IV to reflect contemporary medical terms used for treatments of Attention Deficit Disorder and Attention Deficit Disorder with hyperactivity. In addition, to ease the burden on those individuals with Attention Deficit Disorder, which is a lifelong condition, this bill extends the length of time between prescription renewals for amphetamines and methylphenidate hydrochloride from thirty-four days to sixty days. No one opposed the bill. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

SB 43, relative to the rulemaking authority of the state board of education. Executive Departments and Administration Committee. Vote: 5-3. Inexpedient to legislate, Senator Patenaude for the committee.

SENATOR PATENAUDE: This issue came before the Rules Committee last year at which time the committee issued a final objection to the Board of Education's proposals. At that time, however, the Rules Committee suggested that the Department of Education utilize the legislature to obtain complete statutory authority. However, the committee maintained that SB 43 goes too far in extending the rulemaking authority of the state Board of Education. School districts are fully capable of establishing their own set of ethical standards without intervention by the board. Moreover, although some districts are currently without standards, many of the teachers, administration and staff belong to education associations with established ethical guidelines. The committee was concerned by the potential unconstitutionality of line 17 - 23 on page one "relative to additional rulemaking authority granted to the board concerning ethical standards and a local master plan for staff development and re-certification." The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 45, relative to personnel rights of certain employees of the department of health and human services. Executive Departments and Administration Committee. Vote: 5-3. Ought to pass with amendment, Senator Cohen for the committee.

1997-0209s

01/02

Amendment to SB 45

Amend the title of the bill by replacing it with the following:

AN ACT relative to bumping rights of certain employees of the department of health and human services.

Amend the bill by replacing section 1 with the following:

1 Repeal. RSA 99:9, IV, relative to bumping rights, is repealed.

AMENDED ANALYSIS

This bill restores bumping rights to employees of the department of health and human services who were affected by the department's reorganization of 1995.

Senator Cohen moved to have SB 45, relative to personnel rights of certain employees of the department of health and human services, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 45, relative to personnel rights of certain employees of the department of health and human services.

SB 89, relative to legislative review of certain fire safety rules. Executive Departments and Administration Committee. Vote: 5-0. Inexpedient to legislate, Senator Patenaude for the committee.

SENATOR PATENAUDE: This bill establishes a legislative committee to review certain fire safety rules, namely sprinkler requirements that resulted from 1994 legislation amending RSA 153:5. People who testified in favor of the bill, many of whom were from the Oyster River school

district, were particularly concerned about the Mast Way school in Lee New Hampshire, a project, approved by the state Board of Education prior to the rule change in 1994. Although the project planned was approved by the state Board of Education, once the rules took effect, the school fell into noncompliance. The school was then required by the fire marshal to make a good faith effort over a five-year period to bring the school up to code. However, because the fire marshal and the school districts have cooperated so well, thus far, the committee feels that there is no immediate need for legislative study or intervention. Therefore, the committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 116-FN, relative to the regulation of rural electric cooperatives by the public utilities commission. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass, Senator Rubens for the committee.

SENATOR RUBENS: This is enabling legislation that will allow owner-members of a rural electric cooperative, which there is one in the state, to vote on the issue of deregulation as a nonprofit organization. When permitted to exist outside the realm of the Public Utilities Commission rural electric cooperatives are able to lower electric rates and pass on the savings to their member-consumers. Deregulation would only apply to issues such as electric rates and financing issues such as jurisdiction between co-ops and municipal electric and wholesale power producers would remain under the jurisdiction of the PUC. Whether regulated or the deregulated, however, cooperatives would continue to pay the New Hampshire Franchise tax and would continue to support the PUC by reducing the PUC utility assessment by two-thirds. Similar legislation passed the House last year but failed in the Senate last year. The committee recommends that this bill ought to pass. Thanks.

Adopted.

Ordered to third reading.

SB 164, establishing a committee to study the establishment of a registry for intellectual property. Executive Departments and Administration Committee. Vote 8-0. Ought to pass with amendment, Senator Rubens for the committee.

1997-0211s

01/09

Amendment to SB 164

Amend the bill by replacing section 4 with the following:

4 Chairperson. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

Amend the bill by replacing section 6 with the following:

6 Effective Date. This act shall take effect upon its passage.

SENATOR RUBENS: I would like to thank Senator Gordon for bringing this bill to the legislature. Perhaps this under recognized bill will present a unique and perhaps a very far reaching opportunity, economic opportunity to the state of New Hampshire. Currently there is no existing copyright office, a division of the Library of Congress maintains a clumsy and quite possibly incomplete registry of copyrights. Similarly,

the patent office in Washington, D.C. maintains registries for both patents and trademarks in a confusing outdated fashion. Error laden registries with potentially no records of liens or transfers of intellectual property leave purchasers, lenders, and creditors unprotected, reducing the ability of capital to flow in an orderly way into the industry. Though the registry can only be on a local state-wide level as is proposed here, it is probable and conceivable, that the registry could be expanded to include the region and eventually to the nation with the approximation of major technological centers in Massachusetts and with the luxury of the distinguished Franklin Pierce law Center, ranked as one of the top five schools in the nation for intellectual property law in our own backyard. New Hampshire is an ideal location for such a registry. A local, then regional, then national registry of intellectual property within New Hampshire could bring with it, the economic benefits of high paying jobs in the legal and banking industries, somewhat similar to the location in the Nexus of Delaware as the corporate headquarters location about 30 years ago and leading to the job creation in that industry. The committee recommends unanimously, that this bill ought to pass as amended. The amendment to the bill simply expedites the actions of the study committee. Thank you.

Amendment adopted.

Ordered to third reading.

SB 172, making various changes to the workers' compensation law. Insurance Committee. Vote: 5-1. Ought to pass with amendment, Senator Blaisdell for the committee.

1997-0184s

01/08

Amendment to SB 172

Amend the bill by replacing section 6 with the following:

6 Hearings and Awards. Amend RSA 281-A:43, I(b) to read as follows:

(b) An appeal from a decision of the commissioner or the commissioner's authorized representative shall be taken to the board no later than 30 days from the date of such decision. Upon the filing of an appeal the board shall, within 6 [~~weeks~~] **months** hold a full hearing on the appeal; but, in no case shall such an appeal suspend the operation of an award unless the hearing officer from which the appeal was taken shall so order. The board shall give notice of the scheduled hearing at least 14 days prior to the date for which it is scheduled. Continuances of any hearing are discouraged; however, should a continuance be necessary, the parties requesting such continuance shall file with the board a written petition for such continuance at least 7 days prior to the hearing. Failure to file such a petition shall bar any right to a continuance. Thereafter, a continuance may only be granted upon the commissioner's finding that a compelling need exists so as to require a continuance. The board shall make its decision or order setting forth its findings of fact and rulings of law within 30 days of the hearing.

AMENDED ANALYSIS

This bill:

1. Adds a penalty for doing business with an unlicensed third party administrator.
2. Assesses a civil penalty for failure to provide temporary alternative work in accordance with RSA 281-A:23-b.
3. Deletes the medical and rehabilitation fee schedule and replaces it with a requirement for payment for reasonable value of services.

4. Declares that employers who reinstate an employee shall not be reimbursed from the fund established under RSA 281-A:54 should such employee become injured.
Changes the time frame when an appeal must be heard by the workers' compensation appeals board

SUBSTITUTE MOTION

Senator Danais moved to **substitute recommit for ought to pass with amendment.**

Adopted.

SB 172 is recommitted to the Insurance Committee.

SB 157, adding the name of Martin Luther King, Jr. to Civil Rights Day. Internal Affairs Committee. Vote: 6-1. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: Mr. President and members of the Senate, Martin Luther King, Jr. Civil Rights Day, it is time. Thank you.

Adopted.

Ordered to third reading.

Senators Barnes, Johnson, Roberge and D. Wheeler in opposition to SB 157.

SB 47-FN, continuing the marital guardian ad litem recovery program in the unit of cost containment, office of the commissioner of administrative services. Judiciary Committee. Vote: 7-0. Ought to pass, Senator Podles for the committee.

SENATOR PODLES: Senate Bill 47, continuing the marital guardian ad litem recovery program in the unit of cost containment, office of the commissioner of administrative services. When we have a contested divorce in this state, a guardian ad litem is frequently appointed to a child to report back to the court on matters of custody, for the purposes of insuring the best interest of that child. The statute right now, calls for a repayment, but there is no effective method to determine how to get the repayment into the statute. Two years ago we set up a pilot program to collect from the parents. It's sort of a recoupment program to recover costs of guardian ad litem in martial cases and it has proven to be successful. In eleven months, ending in June 30, 1996, the UCC recouped over three times the amount that had to be recovered in the entire court system in fiscal year 1995. In the first quarter of fiscal year 1997, they were recouping it better than twice the 1996 rate. More accurately, the growth rate has increased steadily, with the performance of the first three months of 1997 at fifty-two percent of the entire 1996 fiscal year. This legislation seeks to ensure that the program continues and to continue the efforts of the UCC. This is why we are putting it into statute; it is working and this would make it a permanent program. The committee recommends ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 66, allowing a state resident to obtain a license for a pistol or revolver for life. Judiciary Committee. Majority report, Vote: 5-3, Inexpedient to legislate, Senator Podles for the committee. Minority report, Vote: 3-5, Ought to pass, Senator D. Wheeler for the committee.

Senator D. Wheeler moved to have SB 66, allowing a state resident to obtain a license for a pistol or revolver for life, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 66, allowing a state resident to obtain a license for a pistol or revolver for life.

SB 102-FN, relative to the possession of certain weapons in the commission of a violent crime. Judiciary Committee. Vote: 8-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: This is a very simple bill. Current law provides that a person who is possessing a sling shot, metallic knuckles, billies or other dangerous weapons, is guilty of a misdemeanor if they have those items in their possession, if they violate any law of the state. The law, as it is currently written, appears to be unconstitutionally vague and it also would appear that it might create unfair results. For example, if you had a sling shot in your possession and you were stopped for a traffic offense, you may be found guilty of a misdemeanor. What this bill does is to correct the law that it says that if in fact, you have these items in your possession, you would only be guilty of a misdemeanor only if you had them in your possession while you were committing a violent crime.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 136-L, relative to interment of dead bodies. Judiciary Committee. Vote: 8-0. Inexpedient to legislate, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: I had a good speech all prepared for this bill. You would have enjoyed it, but I am going to defer to Senator Podles, who I understand is going to make a different motion. Thank you.

SUBSTITUTE MOTION

Senator Podles moved to **substitute re-refer for inexpedient to legislate.**

SENATOR PODLES: Mr. President, the fact that the bill raises numerous public safety issues, I would like to make a motion to re-refer to committee.

Adopted.

SB 136 is re-referred to the Judiciary Committee.

SB 127, requiring candidates for public office to report receipt of contributions in excess of \$500. Public Affairs Committee. Vote: 5-0. Inexpedient to legislate, Senator McCarley for the committee.

SENATOR MCCARLEY: Because SB 70 that was passed last week, establishes a committee to examine campaign finance reform, the Public Affairs Committee voted SB 127 inexpedient to legislate on the grounds that issues raised in SB 127 can be sufficiently addressed by SB 70 in the study committee. In the floor amendment to SB 70 offered by the Public Affairs Committee, we suggested that the study committee specifically address the issue of campaign contributions when money is considered a contribution and when money is considered a gift. Because SB 127 can be absorbed by SB 70, the Public Affairs Committee recommends unanimously, that this bill be considered inexpedient to legislate.

SENATOR LARSEN: This as you all know, is my bill. I think that we all recognize that there is a true problem in the reporting requirements that allow for people to receive contributions and not make an immediate or even a very close report relating to the receipt of contributions during a campaign. In my mind, there really is not much to study on this, but I have the assurances of the Senate from the former bill that we passed that this would, in fact, be part of the study. I think that we need to move on this, and I will be watching the study committee to see that we do see some corrective action on this. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 129, relative to manufactured housing deeds. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-0195s

08/01

Amendment to SB 129

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Prior Unwitnessed Deeds Validated. Amend RSA 477:44 by inserting after paragraph V the following new paragraph:

VI. All deeds which have been acknowledged and recorded according to the provisions of this section since August 17, 1983, but which were not witnessed, shall be considered valid under this section.

AMENDED ANALYSIS

This bill removes the requirement that manufactured housing deeds be witnessed and validates those deeds that, since August 17, 1983, have been properly acknowledged and recorded, but were not witnessed.

SENATOR K. WHEELER: In the early 1980's the state mandated that all real estate deeds must be witnessed. In the mid 1980's the state of New Hampshire did away with the witness requirement, though deeds at the time were required to be notarized. Meanwhile, manufactured housing moved from a personal property classification to a real estate classification; as a result, only a portion of manufactured housing deeds executed in the mid 1980's have included witness signatures. The bill and its amendment, which addresses the lapse in legislation by including language pertaining to prior unwitnessed deeds validated. This brings manufactured housing deeds into conformance with other real estate deeds. The Public Affairs Committee recommends, unanimously, that this bill be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 145-L, relative to the definition of "open space land" for purposes of current use taxation. Public Affairs Committee. Vote: 5-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-0185s

09/02

Amendment to SB 145-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 Land Held for Water Supply or Flood Control Purposes; Taxation. Amend RSA 72:11 to read as follows:

72:11 Water Works; Flood Control.

I. Property held by a city, town or district in another city or town for the purpose of a water supply or flood control, if yielding no rent, shall not be liable to taxation therein, but the city, town or district so holding it shall annually pay to the city or town in which such property lies an amount equal to that which such place would receive for taxes upon the average of the assessed value of such land, without buildings or other structures, for the 3 years last preceding legal process to acquire the same, or other acquisition thereof, the valuation for each year being reduced by all abatements thereon; but any part of such land or buildings from which any revenue in the nature of rent is received shall be subject to taxation; such payments shall be paid to the collector of taxes of the town or city in which such property lies upon notification from him, and such payment shall be made on or before December 1 in each year; provided, however, that after such acquisition the valuation thus established shall be subject to change, as to make such value proportional with the assessed value of other property in the town which is subject to taxation, so that such payment will not exceed its proportion of the public charge in that year. Any city or town aggrieved by the payment in lieu of taxes on such property shall have the same right of appeal as a taxpayer may have.

II. *Property held by a city, town, or district in another city or town for the purpose of a water supply or flood control shall qualify as open space land under RSA 79-A:2, IX, for purposes of taxation under RSA 79-A.*

2 Definition; "Open Space Land"; Current Use Taxation of Water Supply or Flood Control Purposes. Amend RSA 79-A:2, IX to read as follows:

IX. "Open space land" means any or all farm land, forest land, or unproductive land as defined by this section. [~~However, "open space land" shall not include any~~] Property held by a city, town or district in another city or town for the purpose of a water supply or flood control, for which a payment in place of taxes is made in accordance with RSA 72:11 *or RSA 72:11-a shall qualify as "open space land" to the same extent that such property would qualify as such if held by another person.*

3 Effective Date. This act shall take effect 60 days after its passage.

SENATOR WHIPPLE: This bill allows a municipality holding property in another municipality for water supply or flood control purposes, to qualify such property as open space land for current use taxation status. The current law provides that individuals can qualify for current use status. Senate Bill 145 simply provides the same privilege to municipalities. Municipalities should be able to reap the same tax benefits afforded to the individuals, identical to the provisions that apply to individuals if that municipality elects to develop the land in current use, the municipality would ensure a charge equal to 10 percent of fair market value. The amendment to the bill simply provides a cross reference between 72:11 Water Works and Flood Control with 79-A:2, IV to VIII definition of open space land with regard to current use. The Public Affairs Committee recommends unanimously that this bill be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 182-FN, relative to the administration, operation, and maintenance of the New Hampshire state veterans cemetery. Public Affairs Committee. Vote: 7-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: Currently, family members and friends of deceased veterans must travel long distances to visit the grave sites of their loved ones. Providing a veterans cemetery in Boscawen would allow area individuals who wished to visit their deceased friends and relatives to do so, closer to home. The Adjutant General has agreed to assume the responsibilities of administering, operating, and maintaining the New Hampshire State Veterans Cemetery. The Public Affairs Committee recommends unanimously that this bill ought to pass. We urge swift passage of this bill as there is already a waiting list of up to one year for families of deceased individuals who wish their loved ones to be entered into the New Hampshire State Veterans Cemetery.

Adopted.

Ordered to third reading.

SB 7-FN, relative to procedures applying to persons receiving temporary state assistance. Public Institutions, Health and Human Services Committee. Vote: 6-1. Inexpedient to legislate, Senator Francoeur for the committee.

SENATOR FRANCOEUR: Senate Bill 7 would have required persons who receive state public assistance to have the same status and be subject to the same procedures as the state employee of an agency in which a vacant position is being filled. As testimony at the public hearing indicated, this bill is in direct conflict with the existing merit system in the state classified service. Currently, when a position becomes vacant, it is posted within that agency, in house. This offers the state employees the opportunity for advancement within their agency based upon the merit system. After a required amount of time has lapsed, five days, possibly, and no one is hired, it is then registered within the state system. After no decision is made at that level, it is then advertised to the general public. This bill is allowing a special class of individuals to apply for a position while it is still in the in-house status. These recipients are bypassing the general public, and in many cases, other state employees for the vacant positions. The Public Institutions Committee understands the need to get families off of welfare and back to work, but the committee feels that this is not the appropriate method for securing job placement. The committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 67-FN, increasing hazardous duty pay for state prison personnel. Public Institutions, Health and Human Services Committee. Vote: 4-3. Inexpedient to legislate, Senator D. Wheeler for the committee.

Senator D. Wheeler moved to have SB 67-FN, increasing hazardous duty pay for state prison personnel, laid on the table.

Adopted.

LAID ON THE TABLE

SB 67-FN, increasing hazardous duty pay for state prison personnel.

SB 98-FN, relative to the submission of youth employment certificates to employers. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: Senate Bill 98 requires youth employment certificates to be submitted to the employer within three days of the date of employment. This bill is a housekeeping matter. It puts well meaning employers in compliance when, in fact, they might not be. Testimony at

the public hearing indicated that such a change puts New Hampshire in line with federal government reporting requirements that allow employers three days to get documentation regarding employees, United States citizenship. The Public Institutions, Health and Human Services Committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

SB 134, repealing the certificate of need law. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-0172s

01/09

Amendment to SB 134

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study the certificate of need board and RSA 151-C

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study issues relative to the certificate of need board and RSA 151-C.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall conduct a study of RSA 151-C, the functions of the certificate of need board, and any other issues the committee deems relevant.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a committee to study the functions of the certificate of need board and RSA 151-C.

SENATOR FRANCOEUR: Senate Bill 134 as amended establishes a study committee to examine New Hampshire RSA 151-C and the functions of the Certificate of Need Board. Proponents at the public hearing argued that there is little in the way of competition in health care and the industry is raising costs by controlling the demand. The study

is looking for a way to improve the process to bring costs down. The Public Institutions, Health and Human Services Committee urges ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 23, relative to truck lanes. Transportation Committee. Vote: 7-0. Inexpedient to legislate, Senator Patenaude for the committee.

SENATOR PATENAUDE: The committee recommended 7-0 on inexpedient to legislate. The intention of this bill was very good, but it would only affect approximately thirty-five miles of highway in the state and many of the affected highways with three lanes do have left hand exits on them. So at this time, we have decided that this bill would be best as inexpedient to legislate and maybe deal with it in the future.

Committee report of inexpedient to legislate is adopted.

SB 63-FN, relative to access to motor vehicle records. Transportation Committee. Vote: 6-0.

Ought to pass with amendment, Senator Pignatelli.

1997-0188s

03/02

Amendment to SB 63-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose.

I. Identity-based fraud costs New Hampshire consumers, businesses, and government tens of millions of dollars annually.

II. Development of technology which allows for instant verification of a person's identity through the use of photographs will assist in the reduction of identity-based fraud.

III. In allowing specific legitimate businesses access to certain records maintained by the department of safety and contained in driver licenses and non-driver identification cards for the sole purpose of reducing identity-based fraud and enhancing individual privacy, the state satisfies a legitimate and significant state interest.

2 Availability of Records to Government Officials. Amend RSA 260:14, III to read as follows:

III. Motor vehicle records shall be made available in response to a request from a state, a political subdivision of a state, pursuant to a court order, the federal government, or a law enforcement agency for use in official business. *For the purposes of this section, motor vehicle records may be made available to governmental officials or any person designated by such governmental official for use in official business.*

3 New Subparagraph; Motor Vehicle Records, Specific Personal Information; Availability. Amend RSA 260:14, V by inserting after subparagraph (b) the following new subparagraph:

(c) Notwithstanding the provisions of paragraphs IV, V(a), and any other provision of law, the department shall make available an applicant's specific personal information in accordance with this subparagraph. The department shall provide a person with an applicant's specific personal information upon (i) proof of the identity of the person requesting the specific personal information; and (ii) the representation of such person, in a form satisfactory to the department, that such person and the use of the specific personal information by such person satisfy each of the conditions of subparagraph V(c)(1).

(1) The department shall strictly apply each of the following conditions of availability of an applicant's specific personal information:

(A) The person requesting such specific personal information is engaged in the business of providing to third parties mechanisms to reduce or prevent identity-based fraud, such as mechanisms to (i) provide information to verify proper use of credit cards, debit cards, checks, and other forms of financial transactions; (ii) prevent the fraudulent use of credit cards, debit cards, checks, and other forms of financial transactions; or (iii) prevent application fraud, welfare fraud, immigrations fraud, and other similar uses. For the purpose of RSA 260:14, V(c), mechanisms shall mean devices which, when activated at the point of service, produce only a photograph or digitized image of the person whose account has been activated at the point of service and such photograph or digitized image allows for verification that the person seeking the service is the holder of the account which has been activated or is an authorized user of such account.

(B) The person requesting the specific personal information has a place of business in New Hampshire and agrees in writing at the time the request for such specific personal information is made that such person will be subject to the jurisdiction of the state of New Hampshire for enforcement of this section by the department.

(C) The use of such specific personal information provided to such person is limited solely to verify the identity of the holder of an account as the applicant by use of the photograph or digitized image, name, and address of the applicant provided to such person by the department. All specific personal information, other than the photograph or digitized image, name, and address, shall be used by such person only to correlate the photograph or digitized image, name, and address of the applicant with the applicant's account. Under no circumstances shall any specific personal information of the applicant, other than the photograph or digitized image, be available or recorded at the point of service. All specific personal information received by such person shall be encrypted and protected from access by any other person or for any other use.

(D) Prior to the release of any specific personal information of an applicant pursuant to RSA 260:14, V(c), the person requesting such specific personal information from the department shall provide public notice that such person is seeking this specific personal information from the department for the purpose set forth in this subparagraph, and for no other purpose, and shall afford each applicant the right to elect that the department retain and not disclose such specific personal information of the applicant. For purposes of this section, public notice shall mean publication of, and advertisement in, a daily newspaper of general statewide circulation and each of the largest daily or weekly newspapers published in each county of the state. The size of the advertisement shall be $\frac{1}{4}$ of one page and shall appear in each such newspaper on the same day of the week for 3 consecutive weeks. The content of the advertisement shall describe, in clear and concise language, the request for specific personal information to the department and the identity of the person making the request, and provide each applicant with the opportunity to notify the department that the specific personal information of such applicant shall not be disclosed. An applicant who makes the election to prevent the department from revealing his or her specific personal information for the purposes of RSA 260:14, V(c) shall do so in writing on a form provided by the department. Upon receipt of the form, the validity of this election shall be verified by notifying such

applicant in writing that the department has received the election and requesting the applicant to confirm this election. Upon verification of the election, the department shall release no specific personal information of such applicant for the purposes of RSA 260:14, V(c). The person requesting such specific personal information may provide any applicant making the election under this section with additional information which, after review and approval of the department, may be included with the written verification sent to such applicant.

(E) The person requesting the specific personal information under RSA 260:14, V(c) shall agree in writing to identify all accessing of such records and maintain records of those accesses for a period of 5 years after each access occurs.

(2) Subject to the provisions of RSA 260:14, V(c)(1)(D), the content of the advertisement shall be reviewed and approved by the department. The person requesting the specific personal information shall pay all costs of the public notice.

(3) The department shall release the specific personal information of all applicants, other than those applicants who have made the election in RSA 260:14, V(c)(1)(D), to the person requesting it upon compliance with all conditions of RSA 260:14, V(c).

(4) Any person violating RSA 260:14, V(c) shall be subject to the provisions of RSA 260:14, IX and X.

(5) For purposes of RSA 260:14, V(c), the following terms shall have the following meanings:

(A) "Applicant" means the individual whose specific personal information is in the possession of the department and is being requested by a person qualified under RSA 260:14, V(c).

(B) "Holder" and "holder of the account" means the individual in whose name a credit card account, debit card account, checking account or other financial account is maintained.

(C) "Specific personal information" means the last 4 digits of an applicant's social security number as shown on the applicant's driver's license or non-driver identification card, all other information contained in the applicant's driver's license or non-driver identification card, including the photograph or digitized image, but excluding the applicant's entire social security number and the applicant's birth date.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a procedure to be used by the department of safety when the department makes a motor vehicle applicant's specific personal information available to certain persons.

SENATOR PIGNATELLI: Personal identification fraud has become an eighty million dollar a year business in New Hampshire. Although exposure to a person's driver's license and access to computers, criminals are essentially able to assume another's identity. As a result, they are able to illegally charge or write checks for millions of dollars worth of merchandise. Image Data of Nashua, has developed a procedure to protect consumers from personal identification fraud. The device that they have developed, called true ID, would allow a store clerk to call up a digitized picture of the purchaser at the point of sale in order to verify the identity of the person signing the credit card slip or personal check. In order to activate such a system statewide, Image Data needs to access personal information contained in an individual's driver license record that is kept on file at the Department of Safety. Senate Bill 63

provides this access. The bill also requires the Nashua based company to post in the states' newspapers for three consecutive weeks, notification that they are going to be purchasing this information from the Department of Safety. This would provide those who do not wish to have their personal information released, to opt out of this program. This is in keeping with HB 1508, the privacy legislation that passed last session. The committee amendment responds to many of the concerns that the sponsors of last year's privacy legislation had. Specifically, it severely restricts what information will be made available to the Image Data company. Mothers Against Drunk Drivers enthusiastically endorsed this bill at their meeting last night. I have a copy of what this machine that would be attached to the cash registers or at banks would look like. As you can see, the picture is the only thing that is made available to the clerk or the bank teller. The Transportation Committee recommends this bill as ought to pass as amended. Thank you very much.

Amendment adopted.

Ordered to third reading.

Senators Gordon, Francoeur and D. Wheeler are in opposition to SB 63.

SB 86-FN, requiring the division of motor vehicles to report those in default to a consumer reporting agency. Transportation Committee. Vote: 7-0. Ought to pass with amendment, Senator Pignatelli for the committee.

1997-0181s
03/01

Amendment to SB 86-FN

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Printed Notification of Report to Consumer Reporting Agency Required. Amend RSA 263:56-a by inserting after paragraph II the following new paragraph:

II-a. All tickets and court forms shall contain the words: "Failure to pay any fine shall result in the director of the division of motor vehicles reporting the name of any person whose driver license has been suspended under RSA 263:56-a, II(d) to a consumer reporting agency as defined in RSA 359-B:3.

SENATOR PIGNATELLI: I am going to defer to Senator Russman who will speak on this bill.

SENATOR RUSSMAN: Thank you, Senator Pignatelli, for letting me speak on this important issue. Last year we lost six million dollars in court fines and that is a lot of speeding tickets. Sixty-two percent of that was to out-of-state people, so we are asking the Motor Vehicles Department to report all defaults to a consumer credit agency. Hopefully, that will encourage people to pay their bills, especially the out-of-state people who owe a lot of money.

Amendment adopted.

Ordered to third reading.

SB 153, relative to reports of certain motor vehicle accidents and requiring a check-off box on a driver's license application form relative to having the social security number indicated on the driver's license. Transportation Committee. Vote: 7-0. Ought to pass with amendment, Senator Pignatelli for the committee.

1997-0174s

03/08

Amendment to SB 153

Amend the title of the bill by replacing it with the following:

AN ACT requiring a check-off box on a driver's license application form relative to having the social security number indicated on the driver's license.

Amend the bill by deleting section 1 and renumbering the original sections 2-3 to read as 1-2, respectively.

This bill requires the director of the division of motor vehicles, department of safety, to include a check-off box on the driver's license application indicating whether the applicant wants his or her social security number printed on the driver's license.

SENATOR PIGNATELLI: Senate Bill 153 provides a check-off box for individuals choosing not to have their social security numbers listed on their driver's license. This bill was introduced in an attempt to protect an individual's right to privacy given the increase in personal identification fraud throughout the country. A waiver procedure is already in place at the Division of Motor Vehicles to permit a person to have their social security number removed from their licenses, but this can be a very cumbersome procedure. Senate Bill 153 makes this process much easier by simply having a check-off box for those not wanting this information printed on their driver's license. The division indicated that they would incorporate this change with this next printing of applications. The Transportation Committee unanimously recommends this bill as ought to pass as amended. Thank you.

SENATOR D. WHEELER: Given the fact that the previous bill passed, would you also support a check-off box so that your picture would not be in the state's computer as well?

SENATOR PIGNATELLI: Well, as you probably know, Senator Wheeler, you can request that the Division of Motor Vehicles not release your picture, and unless you have been convicted of a felony or a violent crime, you can remove your picture from the department.

SENATOR D. WHEELER: Thank you, Senator.

Amendment adopted.

Ordered to third reading.

SB 74, allowing holders of retail wine and combination wine and beverage licenses to sell fortified wines. Ways and Means Committee. Vote: 3-0. Ought to pass, Senator F. King for the committee.

SUBSTITUTE MOTION

Senator F. King moved to **substitute recommit for ought to pass.**

Adopted.

SB 74 is recommitted to the Ways and Means Committee.

SB 123, relative to shellfish harvesting areas. Wildlife and Recreation Committee. Vote: 3-0. Ought to pass with amendment, Senator Cohen for the committee.

1997-0163s
01/09

Amendment to SB 123

Amend the bill by replacing sections 1 and 2 with the following:

1 Consultation Required. Amend RSA 143:21 to read as follows:

143:21 Forbidden [Sales] **Harvesting**. No shellfish shall be ~~[sold]~~ **harvested in New Hampshire** for food unless taken from areas approved by the commissioner of the department of health and human services~~[-or if]~~. ***If taken from [outside] out-of-state sources, shellfish harvested for food shall be taken*** from areas approved by the **appropriate** state regulatory shellfish authorities having jurisdiction, and secured from shellfish dealers currently listed on the United States Public Health Service publication of approved shellfish shippers. ***The commissioner of the department of health and human services shall consult with the commissioner of the department of environmental services regarding water quality conditions that affect the classification of shellfish growing areas.***

2 New Section; State Shellfish Sanitation Control Authority. Amend RSA 143 by inserting after section 21 the following new section:

143:21-a State Shellfish Sanitation Control Authority. The department of health and human services shall serve as the state shellfish sanitation control authority.

AMENDED ANALYSIS

This bill requires the commissioner of health and human services to consult with the commissioner of the department of environmental services regarding water quality conditions that affect the classification of shellfish growing areas. The bill also provides that the department of health and human services is to serve as the state shellfish sanitation control authority.

The bill also changes the application of the prohibition from shellfish sold to shellfish harvested for food.

This bill was requested by the department of health and human services.

SENATOR COHEN: Senate Bill 123 makes technical corrections to the existing statute relative to shellfish harvesting in an effort to ensure that they are safe for consumption by the general public; specifically, it codifies that the Department of Health and Human Services is the state's shellfish sanitation control authority. It also requires the Departments of Health and Human Services and Environmental Services to consult on issues relative to water quality conditions. The bill does not affect individuals or recreational shellfish harvesters in any way. The amendment simply clarifies the intent of the bill. The Wildlife and Recreation Committee recommends SB 123 as ought to pass as amended.

SENATOR HOLLINGWORTH: Senator Cohen, do you think that you might be able to supply us with some samples of lobsters from the seacoast so that we can be assured and taste for ourselves whether they are tasteful and safe for everyone?

SENATOR COHEN: I look forward to your assistance in digging them.

SENATOR BLAISDELL: Senator Fraser and I will help you.

Amendment adopted.

Ordered to third reading.

SB 158-FN-A, relative to beach erosion along the south side of the Hampton Harbor Inlet and making an appropriation therefor. Environment Committee. Vote: 3-0. Ought to pass with amendment, Senator Cohen for the committee.

1997-0212s

03/02

Amendment to SB 158-FN-A

Amend the bill by replacing section 2 with the following:

2 Appropriation. The sum of \$170,000 is hereby appropriated for the fiscal year ending June 30, 1998, to the New Hampshire state port authority for the purposes of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill makes an appropriation to the port authority to be used to fund beach erosion control projects along the south side of Hampton Harbor Inlet.

SENATOR COHEN: Senate Bill 158 appropriates \$170,000 for beach erosion projects along the south side of the Hampton Harbor Inlet. The Department of Environmental Services testified that this bill is essential to the long-term success of beach and dune restoration initiatives. There is a floor amendment that changes the source of the funding from the general fund to the capital budget, which is more appropriate. The committee urges ought to pass with amendment.

SENATOR F. KING: Is the \$170,000 part of the general fund?

SENATOR BLAISDELL: It is part of their operating budget already, Senator King. You can either send it down to Finance or Capital Budget.

SENATOR F. KING: It is in their operating budget?

SENATOR BLAISDELL: Yes, absolutely. It is in their operating budget.

Amendment adopted.

Senator Cohen offered a floor amendment.

1997-0280s

03/09

Floor Amendment to SB 158-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT relative to the funding of beach erosion control projects along the south side of the Hampton Harbor Inlet.

Amend the bill by replacing section 2 with the following:

2 Funding. The beach control project shall be funded with \$170,000 from appropriations made to the port authority for capital projects in the 1998-99 capital budget.

AMENDED ANALYSIS

This bill funds beach erosion control projects along the south side of Hampton Harbor Inlet from appropriations made to the port authority for capital projects in the 1998-99 capital budget.

SENATOR COHEN: Here is the floor amendment. I have already spoken to you about it.

Floor amendment adopted.

Ordered to third reading.

MOTION TO VACATE

Senator F. King moved to have **SB 204-FN-A-LOCAL**, increasing the tobacco tax and specifying uses for the revenue, vacated from the Ways and Means Committee to the Education Committee.

Adopted.

SB 204-FN-A-LOCAL is vacated to the Education Committee.

MOTION TO VACATE

Senator F. King moved to have **SB 215-FN-A-LOCAL**, increasing the cigarette tax and appropriating funds for education, vacated from the Ways and Means Committee to the Education Committee.

Adopted.

SB 215-FN-A-LOCAL is vacated to the Education Committee.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 108, authorizing school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 and 1998 annual meetings.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 108, authorizing school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 and 1998 annual meetings.

Senator Roberge moved concurrence.

Adopted.

SENATOR RUBENS: I would like to make a statement relative to SB 108. I need to read it into the record. The version of SB 108 as amended and adopted by the House includes the following sentence, "The inspectors of elections appointed as provided in RSA 658:2 shall be sworn in by the assistant moderator before entering upon their duties." I would like to read into the record, statements first of all by Robert Ambrose, deputy secretary of State, "It is my opinion that the inspectors of elections appointed as in RSA 658:2 shall be sworn in by the assistant moderator before entering upon their duties." Will not impede any co-operative school district from using dispersed voting at the 1997 or 1998 annual meeting. Also reading into the record, a statement from Representatives Lockwood and Metzger, Metzger being the chair of the House Municipal and County Committee that heard this bill. Their statement is, "The intent of SB 108 is to enable towns and school districts to appoint inspectors of elections pursuant to RSA 658:2 without the restrictions of the October 15 deadline provided for in the statute. Thank you very much."

ANNOUNCEMENTS**RESOLUTION**

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time,

that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that we be in recess for Enrolled Bill Reports and amendments and House messages, and when we adjourn, we adjourn until Thursday, February 20, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 24, relative to prescriptions for certain controlled drugs.

SB 44, establishing a committee to study the building of a state-owned liquor store in the city of Keene.

SB 63-FN, relative to access to motor vehicle records.

SB 76, limiting the liability of school districts operating facilities for skateboarding, rollerblading, or rollerskiing.

SB 86-FN, requiring the division of motor vehicles to report those in default to a consumer reporting agency.

SB 98-FN, relative to the submission of youth employment certificates to employers.

SB 116-FN relative to the regulation of rural electric cooperatives by the public utilities commission.

SB 121, authorizing state-chartered financial institutions to engage in certain insurance activities.

SB 123, relative to shellfish harvesting areas.

SB 129, relative to manufactured housing deeds.

SB 134, establishing a committee to study the certificate of need board and RSA 151-C.

SB 135, adopting the uniform "transfer on death" security registration act.

SB 139, authorizing banks to invest trust funds in bank-affiliated investments.

SB 145-L, relative to the definition of "open space land" for purposes of current use taxation.

SB 153, requiring a check-off box on a driver's license application form relative to having the social security number indicated on the driver's license.

SB 157, adding the name of Martin Luther King, Jr. to Civil Rights Day.

SB 158-FN-A, relative to the funding of beach erosion control projects along the south side of the Hampton Harbor Inlet.

SB 164, establishing a committee to study the establishment of a registry for intellectual property.

SB 182-FN, relative to the administration, operation, and maintenance of the New Hampshire state veterans cemetery.

HB 193, to amend the procedures for the election of officers in the Lebanon school district.

SJR 2, relative to federal funding under the Individuals with Disabilities Education Act.

Senator Cohen moved that the Senate be in recess until Thursday, February 20, 1997 at 10:00 a.m.

Adopted.

In recess.

Out of recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled Senate Bill:

SB 108, authorizing school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 and 1998 annual meetings.

Senator Barnes moved adoption.

Adopted.

In recess.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 193, to amend the procedures for the election of officers in the Lebanon school district.

Senator Barnes moved adoption.

Adopted.

LATE SESSION

Senator Barnes moved that the business of the day being completed, that the Senate now adjourn until Thursday, February 20, 1997 at 10 a.m.

Adopted.

Adjournment.

February 20, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

In a moment we will all turn and face our nation's flag and pledge our allegiance to that magnificent symbol and all that it represents. I noticed that we do not pledge our commitment to our state flag. I think that is an important point to remember; obviously, it isn't that we are not devoted to the concerns and the cares of New Hampshire, I believe that is quite the contrary, rather it is that at every single session here, we begin with a reminder and a statement of that greater good, beyond our own narrow interest. It is that to which we are pledging all of our efforts. That makes the likeliness of our effectiveness much greater.

Let us pray:

Lord, of the big picture, give us eyes to see the higher, deeper and broader landscape within which the detailed and specific concerns of this

legislative day will have their real benefit. Let each one of us be careful to only pledge our allegiance to that larger, greater and wider good that we might be preserved from the ruts of our own narrowness. Amen.

Senator McCarley led the Pledge of Allegiance.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

SB 15, establishing a committee to examine all aspects of the state park system. Wildlife and Recreation Committee. Majority Report: Ought to pass with amendment, Vote: 4-3, Senator McCarley for the committee. Minority Report: Inexpedient to legislate, Vote: 3-4, Senator D. Wheeler for the committee.

1997-0290s
03/01

Amendment to SB 15

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall examine all aspects of the state park system. This shall include but not be limited to:

- I. Fee structure.
- II. Fines.
- III. Park conditions.
- IV. Park use.
- V. Impact on state and local revenues.
- VI. Impact on tourism.

SENATOR D. WHEELER: The minority of the Senate Wildlife and Recreation Committee finds SB 15 to be completely unnecessary. The Department of Resources and Economic Development indicated that they maintain very detailed reports on the parks that are open to the public's review at any time. They are willing to discuss these reports in more detail with anyone wishing to obtain more specific information. Additionally, there is already an advisory committee that works with the department to maintain the parks. This committee includes a variety of interest such as conservationist and wildlife enthusiasts. The minority of the Wildlife and Recreation Committee recommends this bill as inexpedient to legislate.

SENATOR HOLLINGWORTH: Senator Wheeler, are you aware that I met with the commissioner and that he supports this legislation?

SENATOR D. WHEELER: No, I am not aware of that, but as far as I am concerned, I still do not see a need to study it. We have studied this before and we have set the park systems up with their own financing. I just don't see a need to get into this and have another study committee this summer.

SENATOR HOLLINGWORTH: Senator Wheeler, are you aware that a good percentage of our tourist industry relies on our strong park systems and the relationships that they have with tourism?

SENATOR D. WHEELER: I don't doubt that, Senator Hollingworth, but I don't see any need to study this bill, we have done it before and not that long ago.

SENATOR HOLLINGWORTH: Senator Wheeler, when did we have a study committee?

SENATOR D. WHEELER: We have been studying and working on the issues of the state park system, making them a dedicated fund, looking

into the fees that they charge, trying to make them self-funding. There was not compelling reason brought to this committee to study the state park system.

SENATOR HOLLINGWORTH: Senator Wheeler, the overwhelming testimony was in support of this bill, so I am wondering where the overwhelming decision that you don't need this, where did that come from?

SENATOR D. WHEELER: I think that I just stated that, Senator Hollingworth. There were a few people there and there was no compelling reason to study the park system presented to the committee.

SENATOR MCCARLEY: The state park system is linked with the private sector, particularly with those businesses that cater to the needs of tourism. Since the state's parks portray an image of the state to its visitors, this bill simply requests that the legislature study the park system to ensure that the image being portrayed is the best possible. Testimony suggested that some of the parks have experienced vandalism or have inappropriate access for handicaps or other such issues. A study committee would simply ensure that everything is up to par in the parks. The amendment further expands the areas in which the study committee will be looking at. The Wildlife and Recreation Committee recommend, SB 15 as ought to pass as amended.

Recess.

Out of recess.

SENATOR HOLLINGWORTH: Mr. President and members of the Senate, as you well know, my community is the second largest revenue maker in the parks system. This bill is very important to our community because we feel that the relationship between tourism and the state, since we gave our whole beach to the state parks system, which is eighteen miles of coast line, which is our seacoast. We feel that it is important that the relationship between the park and tourism throughout the state is tremendously important to our revenue source in the state of New Hampshire, and that is why our community and several other communities believe that it is important to discuss, not only the fees and fines, which we know are important to the stability of the parks system and perhaps there isn't enough money in the parks system as we are being told by the Department of DRED and the parks system, so we think that it is important and imperative, that all of the facts be brought out before the House and the Senate. There is a piece in the House that is coming over to us that will look at increasing the fees and the fines for parks. We think that is appropriate, that maybe that should be looked at. That is a House bill. This bill that I have before you, would go one step further. It would not only ask you to look at the fees and fines of the park system, but the relationship between tourism and the park system and the local government, and how best we can make that relationship one that is to the best advantage of everyone in the state and to our revenue stream in the state of New Hampshire. I think that this is an appropriate measure and I am hoping that you would consider it because as you know, this has not been studied, contrary to what you have been told, since John Sununu was governor. This is a dedicated fund and being a dedicated fund means that the money just goes back into the fund and continues on. There hasn't been a study as to just how that revenue is spent. So I would ask that while I understand that you believe that we have given the authority to the parks systems, that we have a responsibility as the legislators, to answer to our constituency and to

the people of the state and to assure that our parks system is healthy and that it has a good relationship with the people whom they serve. I would ask that you consider a favorable vote on this. I recognize that it is not a major piece of legislation. It is in fact, a study. I would hope that you would consider supporting it.

Question is on the majority amendment.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: McCarley, Whipple, Roberge, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

Yeas: 10 - Nays: 14

Amendment failed.

Question is on ordering to third reading.

Motion of ordering to third reading failed.

Senator D. Wheeler moved inexpedient to legislate.

Adopted.

SB 15 is inexpedient to legislate.

SB 33, relative to the legal killing of certain dogs. Wildlife and Recreation Committee. Majority Report: Ought to pass with amendment, Vote: 4-3, Senator K. Wheeler for the committee. Minority Report: Inexpedient to legislate, Vote: 3-4, Senator Patenaude for the committee.

1997-0289s

01/09

Amendment to SB 33

Amend the bill by replacing section 1 with the following:

1 Killing of Dogs. RSA 466:28 is repealed and reenacted to read as follows:

466:28 Killing Dogs Legalized. Any person may kill a dog that is worrying, attacking, wounding, or killing sheep, lambs, fowl, or other domestic livestock, or that is assaulting or attacking other domestic animals or that suddenly assaults that person when necessary to discontinue an attack upon that person, provided that the attack or assault does not occur while the dog is on the premises or otherwise under the control of the owner. For the purposes of this section "worrying" means to run after, chase, or bark at domestic livestock which is in an enclosure.

SENATOR PATENAUDE: This is the same bill that was killed here on the Senate floor one year ago. I ask you, have any of the facts changed since then? I think not. The current law is effective and it is a good law that makes a lot of sense. Do we have a problem in our state of people killing dogs willy-nilly? No. To quote Senator Colantuono's comments that he made here on the floor just one year ago, "The current law that we have right now says that you may kill a dog that suddenly assaults you if you are peacefully walking or riding outside the enclosure of its owner or keeper. You can also kill a dog if you find him "worrying, wounding or killing" domestic animals. This is a perfectly sensible law. What

this bill says, that it gives more protection to your animals than it gives to you as a human being. It says that if your dog is barking, which is another term for worrying, this dog is barking at your chickens, you can kill it, but if it attacks you, while it is on a leash or in its owners yard or in its owners penned in enclosure, you can't protect yourself, you can't kill it. That is absurd." This is why we killed this bill a year ago, and this is why we should kill this bill today. Thank you.

SENATOR K. WHEELER: Senate Bill 33, relative to the legal killing of certain dogs is not exactly the same bill that you had last year. The amendment that you find on page 17 and 18 of your calendar, totally replaces and reworks the bill that was submitted. This does clarify the law regarding the circumstances under which it is legal to kill a dog. The committee amendment completely replaces the original bill. Presently, RSA 466:28 denies dog owners' protection of their property, namely their dogs. In this case, while the dog is on their own land. The present statute reads, "Any person may kill a dog that is found out of the immediate care of its owner or keeper worrying, wounding or killing sheep, lamb, foul or other domestic animals." In short, even when another's livestock or domestic animal is trespassing on your property, where your dog is, your dog could be shot if it barks at that livestock that is already trespassing. That is what the current statute allows. Do remember that to "worry" does mean among other things to bark. You have this issue such as, I have a large black dog about 130 pounds, sort of scary looking although he is really a marshmallow. If someone comes on my property, uninvited, with their dog, my dog is not real near me at this point, my dog barks at them, they could if they had a gun with them, take out their gun and shoot my dog. I don't think that is right. Senate Bill 33 is very clear about the ability of an owner of livestock to protect his property should a dog trespass and cause damage. Also, SB 33 continues to allow an individual the right to defend himself, should he be attacked by a dog. The right to self defense is under the criminal code and it remains unchanged by this bill. Common law and common sense give you the right to protect yourself. It makes no sense to say that this bill would change that. The problem with the existing law is that it does not give us the right to protect our property, namely our dogs. This is a narrow change to say that for instance, someone is riding by your property, they are riding by on a horse, they can't just shoot your dog who is on your property if the dog is barking at the horse. People cannot come onto your property and do bad things to your property. The current law was written when we had packs of wild dogs, thank goodness that doesn't exist anymore. We don't need this wild west provision in our law. Senate Bill 33 really is a housekeeping measure. It is a re-wording of the law rather than an extension of the law to restore to dog owners the same rights and protection of private property afforded to owners of other livestock and domestic animals. It is a simple case of equity under the law. I urge you to support the majority report for this. Thank you.

Question is on the majority amendment.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: McCarley, Whipple, Roberge, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

Yeas: 10 - Nays: 14

Amendment failed.

Question is on ordering to third reading.

A division is requested.

Yeas: 9 - Nays: 11

Motion of ordering to third reading failed.

Senator Patenaude moved inexpedient to legislate.

Adopted.

SB 33 is inexpedient to legislate.

SB 52-FN, prohibiting bear dog training. Wildlife and Recreation Committee. Majority Report: Inexpedient to legislate, Vote: 4-3, Senator Patenaude for the committee. Minority Report: Ought to pass, Vote: 3-4, Senator K. Wheeler for the committee.

SENATOR PATENAUDE: The New Hampshire Fish and Game Department and the Fish and Game Commission oppose SB 52 and testimony before the committee was overwhelmingly in opposition of SB 52. Of over the 10,000 bear hunters, only 2.6 percent receive permits to hunt bear with dogs. There are a number of misconceptions regarding bear dog training and hunting. The use of hounds is highly regulated and the season is short. The hunter must have enough knowledge to find fresh bear sign and the hunter must have trained his dogs well. Of bears that are actually chased, only 25 to 40 percent of these bears are treed. It requires hundreds of hours to train dogs to be effective. For many hounds men, the chase and hearing the hounds are all that is important. But when a hunter does elect to take a bear, shooting a bear that is treed provides a clear shot and a quick kill, always a goal for the humane and ethical hunter. Hounds men have also played a critical role in bear research by facilitating the safe and selective capture of live bears for handling and release by wildlife biologist. New Hampshire's bear population is thriving. As the bear population has grown, so have the human bear conflicts. The use of bear dogs and these human bear conflicts are an effective way to target nuisance bears. New Hampshire Fish and Game does not have the resources to relocate or to kill these bears. The state is liable for bear damage to farm crops. Dog hunters help to minimize or eliminate property damage from bears, because utilizing dogs just to scare away bears can be an alternative to having to kill the bear. Hunting a bear with dogs is a legitimate hunting practice. It is an effective wildlife management tool. Please support the committee report of inexpedient to legislate.

SENATOR K. WHEELER: Senate Bill 52 prohibits the training of bear dogs and prohibits using dogs to kill bears. This is not an anti-hunting bill. It simply addresses the manner of take. I have talked with hunters and former hunters who support the bill because they oppose the use of telemetry with bear dogs. Their issue is fair chase. They have talked about having a bear season in conjunction with the deer season. This would actually give more opportunities to bear hunters. With regard to the notion that you need to tree a bear in order to determine its sex so

that too many females will not be killed, this is not a reason for saying that Fish and Game need the tool of bear dogs. We know that Fish and Game can monitor the hunt very closely because they were able to close the season immediately in 1995 when they felt that too many females were being killed. I have confidence that Fish and Game has all of the tools that it needs to manage the bear population without using bear dogs. Also, restricting the use of bear dogs would in no way affect the use of bird dogs that perform an entirely different function. This is not the beginning of the end of hunting as we know it. It is simply returning to the original way of hunting, fair chase. Thirty-three states prohibit bear dog training and I hope that you will join them by adding New Hampshire's name to this list. We urge you to pass SB 52.

Adopted.

Recess.

Out of recess.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: Roberge, Pignatelli, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, McCarley, Patenaude, Whipple, Blaisdell, D. Wheeler, Squires, Francoeur, Larsen, Podles, Barnes, Russman, Danais, Delahunty.

Yeas: 6 - Nays: 18

Motion of ordering to third reading failed.

Senator Patenaude moved inexpedient to legislate.

Adopted.

SB 52 is inexpedient to legislate.

SB 57, prohibiting bear and deer baiting for hunting purposes. Wildlife and Recreation Committee. Majority Report: Ought to pass, Vote: 4-3, Senator Cohen for the committee. Minority Report: Inexpedient to legislate, Vote: 3-4, Senator D. Wheeler for the committee.

SENATOR D. WHEELER: The current practice for bear and deer baiting is regulated by the Fish and Game Department and the Fish and Game Division, and they are far more knowledgeable about any practices than are most of the members of this legislature; therefore, they are the most appropriate people to make these decisions and we should not be trying to circumvent the process. In 1994 the Senate passed, unanimously, HB 1282 allowing coyote hunting at night. The testimony before the Senate supported the taking of coyote from baited areas. In 1995, this Senate passed unanimously HB 410 that allowed, in part, the executive director of Fish and Game to set the season for baiting certain species as well as established, by rule, the season for training of bear dogs. We would be inconsistent if we pass this bill. Bear baiting is a highly regulated activity. Bait can only be placed after a permit is received. Written landowner permission is required. Landowners can add additional conditions, if they desire, to the permit. Local conservation officers receive a permit copy and map to the bait site location and these

sites are checked on by the conservation officers. The name of the bear baiter must be posted at the site. Bait must be more than three hundred feet from the road or a trail or a dwelling. Pre season baiting is not allowed. The bait season was limited to twenty-two days in length in 1996. In 1996, 317 permits to bait bear were issued, while 10,429 licenses to hunt bears were purchased. In 1996, the Fish and Game received eighty-one permits to bait deer while an estimated eighty thousand people hunted deer. There is a biological impact in that baiting is a good tool to manage the bear herd. Boars are much more likely to be shot over bait than sows. Over the last five years, seventy-two percent of the bears taken over bait have been males. This method of hunting has a lesser impact on the reproductive potential of the population since it is skewed toward the harvesting of males. Bear baiting allows a hunter to be selective and provides a clear and accurate shot so that the game is not left wounded. There is no evidence that hunting over bait for a relatively short period in the fall, at locations removed from human dwellings, leads to habitation of bears. This was said by the experts, or habitation to human foods or problem bears in the following spring or summer. The New Hampshire Fish and Game Department and the New Hampshire Fish and Game Commission unanimously oppose this bill and we would ask that the Senate find it inexpedient to legislate.

SENATOR COHEN: The majority of the committee recommends ought to pass as amended. At the hearing on SB 57, Senator Rubens said that he opposed it because it was imposing one set of values on bear baiters. Well, he is right. In our civil society, legislators make laws that often times reflect a subjective set of values that is agreed to by the majority. Does this mean imposition of values through legislation? You bet it does. In the legislative process, we do it all of the time. There are many examples, but just to name a few, cock fighting was a tradition for generations. Even though it was enjoyed by some as recreation, cock fighting is illegal now. There used to be something called "rat dogs" in which dogs were set in a pen to see which could kill the most rats. Even though the practitioners of these events fought to keep their recreation legal, we banned that. The same is true of dog fighting as a sport. It is cruel and we made it illegal. There are many other examples. In each of these cases, there are those who fiercely resisted laws reflecting changes in societies' values, yet laws were indeed made, and values were imposed. As legislators, it is part of our job to be attuned to our communities' values and to make appropriate laws to keep civil society's, and to keep it fair and just. Senate Bill 57 is about values. It reflects the fact that most of New Hampshire believes in fair chase and sportsmanship in hunting. There is no fair chase in bear baiting. Baiting is the practice of luring and shooting bears over piles of rotting food or often doughnuts in the forest. It is about as sporting as shooting bear in a zoo. A top official of the U.S. Forest Service declared in 1990 that, "Lures to draw elk and other game animals is unethical. The Forest Service believes that these same standards should apply to black bear." Baiting a bear and then shooting him while eating is like putting bird seed in a bird feeder then shooting the birds who came for a meal. It has been testified to me by some prominent hunters that bears are very smart animals, but they can be made stupid by food. There is simply no sport to shooting a bear with its head in a barrel. Bear baiting is not sporting, it is slaughter. I would like to quote Mr. Lessner from the Union Leader in an editorial, "Anyone who shoots big game over bait is undeserving of the honored designation sportsman. Only lazy hunters set out bait or shoot over salt

licks or grain stations. It is butcher's work. Bait stations are offensive to most forest users. They are smelly, rotting dump piles which would lead to fines for anyone not a baiter. Also, conditioning bears to humans as a food source does lead to camp site raids and other human bear conflicts. An habituated bear having lost its natural fear of humans often becomes a threat to society." The most common objection that I have heard to this bill, is that it allows Fish and Game to decide. We shouldn't be dealing with this subject. This bill allows Fish and Game management. But I have to ask, since when do the people in New Hampshire believe in yielding our legitimate decision making to the department of bureaucrats? It is we, the citizenship legislature, that is charged with setting policy. Like all departments, Fish and Game make rules to implement the policies that we make. Often times departments come to us to change legislation because they recognize that as direct voices to the public that we make policy and they implement it with rules. It would be a sad day in New Hampshire if we were to abdicate our responsibility to make policy to bureaucrats now assigned to carry out these policies. As chair of Wildlife and Recreation, I recognize that hunting is something of value to most people in New Hampshire and it is worth preserving. The heart of hunting is conserving our wilderness and our wildlife resources. The heart of hunting is preserving fair chase and sportsmanship. Those of us who care about New Hampshire's wildlife resources and our valuable hunting-allured attraction, know that it is indeed right to keep it sportsmanlike and fair. On that, most of society agrees. There is wide agreement that bears are valuable. From the Wild-life Journal, "Black bears represent a unique and invaluable ecological social economic resource in New Hampshire. To many, black bears embody the spirit of wild and independent New Hampshire, and in doing so, significantly contribute to the allure of the state as a popular tourist and vacation destination." It also suggests that people with an appreciation for bears pass the word, "Don't ever purposely feed bears." Another quote from John Harrigan from the New Hampshire Sunday News, "It is one thing to shoot bear that you just happen to encounter, but it is quite another to sit in a tree and kill a bear that you have lured with bait. To many people, it comes across as shooting a rat in the dump, the ultimate trashing of an animal that we profess to revere. Bear baiting is not sportsmanlike. There is no fair chase either for the game or the other fair chase hunters who are at a significant disadvantage to the baiters with their mechanical efficiency." Yes, this is about values. You and I know that if we took a poll that the vast majority in New Hampshire would be appalled at this practice and would not want bear baiting to remain legal. Despite, obviously, significant pressure from the baiters, hunters are divided in this state. Most are sportsmen and many have told me that they are disgusted by baiting. They may not want to come out publicly, but many will tell you one-on-one that they know baiting is not sportsmanlike and it is wrong. Sportsmanship and fair chase are values in which most of us can agree. Those who engaged in cock fighting did not give up their tradition without resistance, but the change was made anyway. You and I know that ending baiting is simply the right thing to do. Like cock fighting and rat dogging, it is not a New Hampshire value worth preserving. It is right for us to reinforce the values of sportsmenlike hunting. I urge passage of ought to pass as amended. Thank you.

Recess.

Out of recess.

SENATOR BLAISDELL: Mr. President, on SB 57, I am going to get up and I am going to speak for the minority report. Don't fall out of your chair, Senator Wheeler. The closest thing that I have ever come to a bear is Bear Bryant, the coach of Alabama. I met him twenty years ago out in Chicago. I read the article by Rick Lessner, from the Union Leader. I read his article and then I went to my son Michael. My son Michael is the former chairman of the Fish and Game Commission until Mr. Merrill got upset with him because he wouldn't do what he was told, but anyway.... This is important to me. We are beginning to micromanage every department that we have in this state. I think, Senator Wheeler, that your words are eloquent, really, about the Fish and Game Commission and how they should run it and do it that way. I just want you to know, so don't count your eggs before they hatch from now on, I can tell you that. I think that you should go with the minority report and leave it alone. Let them manage it and go from there. Thank you very much.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: Gordon, Johnson, Roberge, Pignatelli, Larsen, Barnes, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Fraser, Rubens, McCarley, Patenaude, Whipple, Blaisdell, D. Wheeler, Squires, Francoeur, Podles, Russman, Danais, Delahunty.

Yeas: 10 - Nays: 14

Motion of ordering to third reading failed.

Senator D. Wheeler moved inexpedient to legislate.

Adopted.

SB 57 is inexpedient to legislate.

TAKEN OFF THE TABLE

Senator Cohen moved to have **SB 67-FN**, increasing hazardous duty pay for state prison personnel, taken off the table.

Adopted.

SB 67-FN, increasing hazardous duty pay for state prison personnel.

SENATOR D. WHEELER: The majority in the Senate Health and Human Services Committee felt that SB 67 should be inexpedient to legislate. Senate Bill 67 carries a cost with it of almost one million dollars to increase the hazardous duty pay, from twenty-five dollars for forty hours to fifty dollars for 40 hours. Even if 60 hours is worked in one week, they still get it based on the 40 hours. We feel that this bill is excessive in our current fiscal situation. We also feel that this time of an issue should be resolved in contract negotiations and should not just be handed off with nothing in return. So we ask that you find SB 67 inexpedient to legislate.

Question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Hollingworth.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

The following Senators voted No: McCarley, Whipple, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 15 - Nays: 9

Committee report of inexpedient to legislate is adopted.

SB 67 is inexpedient to legislate.

TAKEN OFF THE TABLE

Senator J. King moved to have **SB 45**, relative to personnel rights of certain employees of the department of health and human services, taken off the table.

Adopted.

SB 45, relative to personnel rights of certain employees of the department of health and human services. Executive Departments and Administration Committee. Ought to pass with amendment.

SENATOR J. KING: This has to do with something that happened two years ago in the state legislature relative to HB 32 where we gave some of our rights away for a short period of time. Hopefully, this bill restores the personal right of bumping to the employees of the Department of Health and Human Services who are affected by the department's reorganization of 1995. At the current time, they were the only ones in the state that don't have bumping privileges. The Department of Health and Human Services, as a result of the passage of HB 32, a bill enabling this massive health and human services organization overhaul, certain employees rights were needlessly wiped out; however, none of it was used during the two-year period that they had it. I guess it wasn't really needed. Bumping, otherwise known as a basic right to upon lay off, replacing an employee with less seniority as one such right that was wrongly done away with. Not a single bumping situation has arisen since the passage of HB 32, thus, demonstrating that bumping, in no way, interferes with the departments efforts for a smooth transition which optimizes personal resources and especially the two-years gone by now. I would imagine that the roughest roads are over, at least, hopefully so. It wasn't necessary to begin with and it is less necessary now. The committee recommends that this bill be ought to pass as amended. By the way, the other part of the right, I forget what it was, oh yes, the transfers were deleted from the bill also.

Question is on the committee amendment.

A division is requested.

Yeas: 10 - Nays: 13

Amendment failed.

Question is on ordering to third reading.

A roll call was requested by Senator Pignatelli.

Seconded by Senator J. King.

The following Senators voted Yes: F. King, McCarley, Whipple, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

Yeas: 10 - Nays: 14

Motion of ordering to third reading failed.

Senator Barnes moved inexpedient to legislate.

Adopted.

SB 45 is inexpedient to legislate.

TAKEN OFF THE TABLE

Senator Danais moved to have **SB 21**, excepting persons who are 17 years old and graduated from high school from the youth employment law, taken off the table.

Adopted.

SB 21, excepting persons who are 17 years old and graduated from high school from the youth employment law. Insurance Committee. Ought to pass.

Adopted.

SENATOR DANAIS: This was a bill that was passed out of committee favorably. There was a concern regarding a youth that graduated from high school and did not have to obtain a permit. One of the questions that arose was, that if the student received his GED diploma, does he still qualify for not having to get that permit. This amendment, as you can see on line number ten, clarifies the language. It states, "A youth 17 years of age who has graduated from high school or obtained a general equivalency diploma." This is a floor amendment that I am offering. This bill has a possibility of not getting a roll call.

Senator Danais offered a floor amendment.

1997-0052s

10/08

Floor Amendment to SB 21

Amend the bill by replacing section 1 with the following:

1 Youth Employment Law; Exception for 17-year-old High School Graduates or Equivalent. Amend RSA 276-A:4, II to read as follows:

II. No youth shall be employed or permitted to work without a certificate except:

(a) For his *or her* parents, grandparents, or guardian, [or]

(b) At work defined in this chapter as casual; [or]

(c) As farm labor; *or*

(d) *A youth 17 years of age who has graduated from high school or obtained a general equivalency diploma.*

AMENDED ANALYSIS

This bill adds an exception to the requirement for a certificate under the youth employment law for 17-year-old persons who are high school graduates or who have received a high school equivalency diploma.

SENATOR DANAIS: As everyone can see, this bill clarifies some language that some of my fellow senators brought up regarding the language. On line ten of the amendment. "A youth 17 years of age, who has

graduated from high school", which was the original language, we added "or obtained a general equivalency diploma" does not have to go back to his principal to get a work permit to go to work. That is the only thing that this bill clarifies. This was the original intent of the original bill. With that in mind, I urge its passage. Thank you.

Floor amendment adopted.

Ordered to third reading.

SB 39, allowing a bank to establish and operate a mobile branch office. Banks Committee. Vote: 4-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-0286s

09/08

Amendment to SB 39

Amend the title of the bill by replacing it with the following:

AN ACT relative to the delivery of bank products and services.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Mobile Branch and Defined Service Branch Offices Authorized. Amend RSA 384-B:2 by inserting after paragraph I the following new paragraphs:

I-a. With the approval of the bank commissioner and subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, any bank may establish and operate one or more mobile branch offices. A mobile branch office shall consist of a motor vehicle specifically designed to conduct a banking business which is moved to one or more predetermined locations in any town or towns within or without the state on a predetermined schedule. A mobile branch office may conduct any banking business that is permitted for a stationary branch. A mobile branch office is a "branch office" as defined in RSA 384-B:1, III and shall be subject to any and all applicable requirements relating thereto. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the operation, location and schedule of mobile branch offices.

I-b. With the approval of the bank commissioner and subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, any bank may establish and operate one or more defined service branch offices. A defined service branch office shall consist of an office designed to conduct a banking business which may be operated on a predetermined schedule for fewer than the normal hours of operation of the bank or for designated days and times. A defined service branch office is a "branch office" as defined in RSA 384-B:1, III and shall be subject to any and all applicable requirements relating thereto. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the operation and schedule of defined service branch offices.

I-c. For purposes of this section "bank" shall mean:

(a) A "bank" or "national bank" as defined in this chapter; and

(b) An "out-of-state bank" as defined in RSA 384:57, V which has merged with such a bank or a national bank pursuant to RSA 384:59.

2 New Section; Account Service Representatives. Amend RSA 384-B by inserting after section 2-c the following new section:

384-B:2-d Account Service Representatives. Subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, account service representatives of a bank may visit any public event and com-

mercial location, including any business, educational, health care, retirement or governmental facility, for the purpose of opening new deposit accounts and receiving initial deposits thereon or establishing new banking relationships, if access to such public event or commercial location is available to all banks on a nondiscriminatory basis. The bank commissioner shall have authority to terminate visits to any public event or commercial location by all banks if the commissioner finds that access is discriminatory or by any one bank if the commissioner finds that it is conducting banking business in violation of federal or state laws or regulations. The conduct of any business at a public event or commercial locations as authorized by this section is not a "branch office" as defined in RSA 384-B:1, III. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the activities of account service representatives at such public events or commercial locations.

3 New Paragraph; Electronic Banking. Amend RSA 384-B:7 by inserting after paragraph II the following new paragraph:

III. The presence of an authorized service representative of a bank at any such electronic device or machine for the purpose of assisting customers to engage in transactions shall not cause the electronic device or machine to become a "branch office" as defined in RSA 384-B:1, III.

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill allows a bank to establish and operate mobile branch offices and defined service branch offices. The bill also authorizes account service representatives of banks to visit public events and commercial locations for the purposes of opening new banking accounts or establishing new banking relationships.

SENATOR FRASER: Mr. President and my colleagues in the Senate, SB 39 as introduced would have allowed banks to utilize secured mobile units to provide products and services to consumers outside of the bank or the branch office. When we first heard the bill, at the public hearing, there was concern expressed by some of the community banks who felt that the cost of these mobile branching units would preclude them from taking advantage of this option, and would therefore place them at a competitive disadvantage with larger institutions. The committee saw value and merit in providing an alternative delivery system for banks and a more convenient alternative for consumers that it can be very useful in reaching out to those consumers who may not have the ability or method of getting to the bank. Banks are currently prohibited from conducting certain banking activity off premises. So we encourage the banks to work out a solution. What you have before you today, is an agreed upon amendment that provides smaller banks with the ability to effectively compete with larger banks in reaching out to consumers without the purchase of a mobile unit. In addition to the mobile branching provision, a new, "defined service branch" will be authorized, allowing banks to establish an office designed to conduct branching activities to be operating on predetermined schedule for fewer than normal hours of operation of the bank or for designated days and times. Arrangements can be made with retirement communities, educational facilities and business and governmental facilities to schedule times and places where banking activity may be conducted on premises. Both the mobile branch office and the defined service branch are considered "branching offices" and are subject to any and all applicable requirements, rules and laws

pertaining to branch banking. In addition, the amendment allows for an account service representative of a bank to visit businesses, educational, health care, retirement, governmental facilities for the purpose of opening new deposit accounts and receiving initial deposits or establishing new banking relationships so long as the location is available to all banks on a nondiscriminatory basis. Mr. President, the vote of the committee was unanimous and we urge the adoption by the Senate.

Amendment adopted.

Ordered to third reading.

SB 92, establishing a committee to study the utilization of the state's allocation of tax exempt private activity bonds. Banks Committee. Vote: 4-0. Inexpedient to legislate, Senator Danaïs for the committee.

SENATOR DANAIS: Senate Bill 92 would create a committee to study the current allocation and use of the state's authority to issue tax exempt private activity bonds. Currently, tax exempt bonds are being used on projects to provide housing and small business loans. This bill is looking to expand this bond capacity to student loans. The prime sponsor of this bill requested that this bill be voted as inexpedient to legislate as the issues that were raised were adequately resolved without the need for legislation. The Banks Committee recommends unanimously that the bill be inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 59-FN-L, relative to calculation of tuition for out-of-district pupils. Education Committee. Vote: 7-0. Inexpedient to legislate, Senator Johnson for the committee.

SENATOR JOHNSON: This bill would have raised the percentage of the capital cost of secondary school facilities for the schools out-of-district pupils from two percent to four percent. My analysis along with the committee, did not see the rational of the change. As prime sponsor of this legislation, I asked the committee to kill the bill. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 138, establishing teacher appreciation day. Education Committee. Vote: 7-0. Ought to pass with amendment, Senator Larsen for the committee.

1997-0263s

04/02

Amendment to SB 138

Amend the bill by replacing section 2 with the following:

2 New Section; Teacher Appreciation Day Proclaimed. Amend RSA 4 by inserting after section 13-f the following new section:

4:13-g Teacher Appreciation Day. The governor shall annually proclaim the first Wednesday in February as Teacher Appreciation Day, and shall urge local communities, school administrative units, and school districts to observe such day in recognition of the dedication and service of New Hampshire's teachers.

AMENDED ANALYSIS

This bill provides that the governor shall declare the first Wednesday in February of each year as teacher appreciation day.

SENATOR LARSEN: Senate Bill 138 as amended establishes the first Wednesday in February as Teacher Appreciation Day in New Hampshire. You have all seen the bumper stickers that say, "If you can read this then thank a teacher?" All of us remember a teacher who has been influential in our lives. This bill gives us an opportunity to recognize the wonderful job that teachers do for our society as they educate our youths. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 154, relative to charter schools. Education Committee. Vote: 5-2. Ought to pass with amendment, Senator Rubens for the committee.

1997-0268s

01/09

Amendment to SB 154

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Statement of Purpose Added. Amend RSA 194-B by inserting after section 1 the following new section:

194-B:1-a Statement of Purpose. It is the purpose of this chapter to:

I. Promote and encourage the establishment and operation of charter and open enrollment schools in New Hampshire.

II. Encourage school districts to allow choice by parents and pupils among public charter and open enrollment schools.

III. Encourage the establishment of public schools with specific or focused curriculum, instruction, methods, or target pupil groups and broaden community options for meeting specific educational needs.

IV. Improve pupil learning and increase choice among different learning opportunities for pupils.

V. Exempt charter schools from state statutes and rules, other than where specified, to encourage the use of different and innovative learning, teaching, operational, and administrative methods and encourage the use of innovative school locations.

VI. Create new professional opportunities and greater flexibility for teachers.

VII. Establish results-driven accountability for public schools and require the measurement of learning.

VIII. Make the school the unit for improvement.

2 Description of Proposed Location of Charter School Facility. Amend RSA 194-B:3, II (d) to read as follows:

(d) *General* description and *proposed or potential* location of facilities to be used, *if such information is available*.

3 Location of Charter School. Amend RSA 194-B:3, II(1) to read as follows:

(1) Pupil transportation plan, including reasonable provision from the charter school's own resources for transportation of pupils residing outside ~~[that school's]~~ *the district in which the charter school is physically located*.

4 Charter School Applications; Procedures Revised. Amend RSA 194-B:3, III(a) to read as follows:

(a) Applications for approval of a charter school ~~[shall not]~~ *may* be submitted to the school board ~~[until]~~ *at any time, including at the same meeting, or before or after* the provisions of RSA 194-B:4, I(d)(1) have been adopted by the school district legislative body.

5 Charter School Applications; Procedures Revised. RSA 194-B:3, III (d) is repealed and reenacted to read as follows:

(d)(1) When a proposed charter contract application is granted by the school board, the state board shall by September 1 of the given year approve the contract without a hearing and issue a charter enabling the formation and operation of the charter school, provided that the school district ~~[has adopted]~~ **adopts** the provisions of this chapter as specified in RSA 194-B:4, I.

(2) The charter school's prospective board of trustees may appeal a denial by a school board to the state board by July 15 of the given year, submitting either the original or a revised contract. By September 1 of the given year, the state board shall grant or deny the submitted contract, using as its criteria whether or not the contract contains and addresses those areas specified as deficient by the school board in its written statement to the state board. The state board reserves the right to suggest, but not compel, amendments or additions to the submitted contract. Contract disapproval's by the state board shall include a written statement specifying areas deemed deficient. The state board shall promptly notify the prospective board of trustees and the school board of its decision in writing. For any applicant charter school whose submitted contract is deemed complete and is approved by the state board, the state board shall issue a charter enabling the formation and operation of the charter school, provided that the school district ~~[has adopted]~~ **adopts** the provisions of this chapter as specified in RSA 194-B:4, I.

6 Ratification of a Charter School Contract. Amend RSA 194-B:3, III (f) to read as follows:

(f)(1) ~~[The executed contract shall be submitted to the school district legislative body for]~~ ***The state board shall submit 2 copies of the approved contract to the clerk of the school district who shall make the contract available for inspection by the voters of the school district. The school board shall submit a warrant article to the school district legislative body for*** subsequent ratification or denial without amendment, which decision shall be final. The ratification question shall be placed on the warrant of the next special or annual school district meeting. In districts without annual meetings, the legislative body shall have final authority to ratify or deny the state board approved contract. A ratified contract grants final authority for the charter school to operate for the life of its contract and to receive school district funds.

(2) The school district legislative body may ratify an executed contract at any time, including at the same meeting or after adoption of the provisions of this chapter as specified in RSA 194-B:4, I. In-district enrollment caps specified in RSA 194-B:4, I(d)(1) and (2) shall not be less than the combined maximum enrollments of all district approved charter and open enrollment schools.

7 New Paragraph; Acquisition of Real Property. Amend 194-B:3 by inserting after paragraph XII the following new paragraph:

XIII. The board of trustees of a charter school may acquire real property by lease, purchase, lease with purchase option, gift, or otherwise at any time prior to receiving a charter.

8 Changing Limitation Percentages. Amend RSA 194-B:4, I(d) and (e) to read as follows:

(d) The wording of the required adoption and limitation questions shall be either or both:

(1)(A) "Shall we adopt the provisions of RSA 194-B, implementing a charter and open enrollment school program?"; and

(B) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend charter and open enrollment schools located outside the school district?"; and

(C) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend charter and open enrollment schools located inside the school district?"; or

(2)(A) "Shall we adopt the provisions of RSA 194-B, implementing an open enrollment school program?"; and

(B) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend open enrollment schools located outside the school district?"; and

(C) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend open enrollment schools located inside the school district?"

(e) For all limitation questions, the school board shall propose a percentage limitation number. The number may also be proposed by petition. ***To change limitation percentages, a district having already adopted either charter or open enrollment programs, need only act upon the relevant limitation questions.***

9 New Paragraphs; Consolidation for Purposes of Admissions Lottery; Location of Charter School. Amend RSA 194-B:4 by inserting after paragraph III the following new paragraphs:

IV. Upon approval by each of the district's legislative bodies and after a public hearing, 2 or more school districts may consolidate otherwise eligible resident pupils into one applicant pool for the purposes of an admissions lottery for designated charter or open enrollment schools.

V. A charter school may be physically located outside the district establishing it, but shall be deemed within the school district for purposes of RSA 194-B:4, I(d).

10 Spaces Reserved for Children of Founders of Charter School. Amend RSA 194-B:9, I(c)(3) to read as follows:

(3) If the number of otherwise eligible applicants to charter or open enrollment schools located inside and outside the school district exceeds that district's published maximum percentage of pupils authorized to attend such schools, the district shall use lottery selection as a basis for pupil eligibility, and in accordance with RSA 194-B:2, VIII. ***A charter school may reserve spaces among its total approved enrollment for the enrollment of not more than 12 pupils whose parents are founders of the charter school.***

11 Funding; Schedule of Payments. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's prior fiscal year's average cost per pupil. In calculating the cost per pupil, the district's expenditures for all added services for special education and for services provided under individual

education plans, plus any federal or other funds identified under RSA 194-B:11, IV, shall be deducted from the school district's total education expenditures. The 80 percent minimum amount shall be as determined by the department of education. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. ***To the extent permitted by law, funding for a pupil attending a charter or open enrollment school shall be paid on the same schedule as the resident district, or on such other terms as the school and the funding source may find mutually acceptable.***

12 Geographic Dispersion Deleted. Amend RSA 194-B:20, I to read as follows:

I. Prior to January 1, 1997, the state board shall grant no more than 5 charter school applications. During calendar year 1997 and each calendar year thereafter, no more than 10 charter school applications shall be granted by the state board. ~~[To ensure geographic dispersion of charter schools throughout the state, no more than one charter school and one charter conversion school application shall be granted in any one calendar year in each executive council district.]~~ The physical location of the charter or charter conversion school shall be used to determine its executive council district. Denial by a legislative body for a state board approved charter school's authority to operate under the provisions of RSA 194-B:3, III(f) shall allow an alternate charter school application to be granted by the state board. Final authority to operate fewer than the maximum number of permitted charters in any executive council district in any year shall not increase the maximum number of permitted charters in that district in any subsequent year.

13 Repeal. RSA 194-B:3, IV, relative to appeals of school board denials to the state board, is repealed..

14 Effective Date. This act shall take effect upon its passage.

SENATOR RUBENS: The present charter school law adopted by the state in 1995 requires four steps to gain approval. 1) There is a vote by the local school district voters or legislative body. 2) A charter school applicant would bring a specific proposed charter school contract to the local school board for negotiation, ratification or denial. 3) That contract is brought to the state Board of Education for negotiation, ratification or denial. A successful contract 4) goes back to the voters for final approval, back to the school district voters for final approval in final form. We have the toughest charter school approval law among the twenty-four states that now have such a law, because of these four steps. In 1996, the first year that this was operative, it was field tested seven times in a variety of districts. What we found from these field tests is that the first step, that first vote, was tremendously confusing to the voters, the charter school applicants, which are typically parents who are political novices, they just want to have educational options for their children. They found that they were creating mistrust, they weren't ready with a specific contract because they had not yet come before the school board to negotiate and iron out the details of the proposed charter school contract. It had not even really fleshed out in great detail their proposal. In the voters, it created quite a bit of mistrust. The voters really clearly wanted, and this is what we found from the seven groups that brought this proposition before the voters for the first time in 1996, the voters want a clear, defined, charter school proposal. They don't want a nebulous concept of exploring charter school options. They want to see it, taste it, touch it. They want to know what it is, they want to know who is behind it, how it works, how big it is. So this bill, this amendment, makes two key

changes to the existing charter school legislation of the state. 1) It removes the requirement for the first vote. 2) It allows the creation, this is the other key component of it, it allows the creation of multi-district or regional charter schools. It might be nourished equally by school districts that are adjacent to one another. These changes would leave the charter school law, still the toughest in the U.S., in order to get a charter school going. So I would urge ought to pass as amended. The committee report on this bill was five to two. I think that we generated a consensus on the bill, although there is controversy because there are those who feel that the process should remain very, very difficult to get a charter school going. The purpose of the original charter school is to encourage the formation of these schools, not to make it impossible for them to be formed. Thank you very much, Mr. President.

SENATOR PIGNATELLI: Senator Rubens, so can you tell me what the process will be should this bill become law?

SENATOR RUBENS: The charter school applicant would go to the school board with a proposed contract and the negotiating process back and forth. The contract will probably be improved as a result of that process, whether the school board approves or denies it. The denial would then go to the state board should the applicant want to continue. The state board can override the local school board denial or approve it if the local school board approves. Then, finally, that final proposed and agreed to contract, goes back before the voters in every single case, it must go back before the voters of the local school district for a yes or no, up and down. In every case, the voters of the school district have total authority to say no, but this time they will be able to look at a specific proposed contract with all of the "I's" dotted and all of the "T's" crossed and they will know the size, shape and smell and etceteras.

SENATOR PIGNATELLI: Thank you very much.

SENATOR MCCARLEY: I was one of the two people who had some difficulties with the bill as it came out amended. I think that to respectfully disagree with Senator Rubens, it is not because of a problem of making it hard to become a charter school, but from all that I have heard and the representative who came and testified to us, who spoke very eloquently, I thought, for the need for that first vote by all of the voters in the district. He indicated, and much of the testimony really turned on the very onerous language that was put in the bill that had to be in the part of the petition, in terms of wording, that made it very hard for voters to understand what they were being asked to do. I had suggested in looking at making this process simpler for voters, that we ask a much simpler question and allow the process, which has only been in place for one year, to proceed ahead as it is and simply uses a simpler question. There was not support for that at the time; therefore, I find it hard to support this now and I would encourage that it not pass. Thank you.

Recess.

Out of recess.

Question is on the committee amendment.

A roll call was requested by Senator Rubens.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

The following Senators voted No: McCarley, Whipple, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 15 - Nays: 9

Amendment adopted.

SENATOR HOLLINGWORTH: Senator McCarley, it was explained that the reason for this is to make it easier so that a full-blown plan for a charter school could come in. Now is it true that the way that it stands now, that there is nothing preventing any group from coming in before a board with the full-blown plan?

SENATOR MCCARLEY: No, as it stands right now, the interested citizens in a charter school can choose to come in, in terms of talking with their community before the vote with as much or as little information as they want. Again, I think what occurred that was so onerous is that the questions required on the warrant article are very difficult for voters to understand and, I think, that caused as much the problem as the idea of simply the question being put to the community.

SENATOR HOLLINGWORTH: Is this not a case of local control if a community decides right up front that they are not interested in going forward with the discussion that they can make that decision before any expenses are expended to develop this plan?

SENATOR MCCARLEY: I believe that was the intent of the original legislation and this change, to some degree, shortens that process, as I said earlier, in my opinion, and appropriately in terms of the community.

SENATOR HOLLINGWORTH: Could you tell me, is it true, I understand that the school boards appeared in opposition to this legislation. Is that true?

SENATOR MCCARLEY: Yes, they did.

SENATOR HOLLINGWORTH: Thank you.

Ordered to third reading.

SB 155, requiring the division of educational improvement, department of education, to prepare and adopt a plan for providing special education to inmates in the state prison system and county correctional facilities. Education Committee. Vote: 7-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Currently there is no overall plan to provide special education services to people incarcerated in the state prison system or county correctional facilities. The state is required to provide these services to eligible people by the federal government. This bill requires the Division of Educational Improvement, Department of Education, to prepare and adopt a plan for providing special education services to inmates in both the state prison system and the county correctional facilities. This bill will require that a comprehensive plan be developed so that services are not delivered piecemeal. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 156, establishing a committee to study issues relating to providing special education services to eligible pupils who are incarcerated in the state prison system and county correctional facilities. Education Committee. Vote: 7-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 156 is to make sure that special educational services are provided in the county house of correction. We have been determined to be in noncompliance with federal law requiring the state to provide these services to incarcerated inmates. This bill creates a committee to study how these services should be provided to persons incarcerated at the county house of correction.

Adopted.

Ordered to third reading.

SB 169-FN, relative to a college tuition savings plan. Education Committee. Vote: 7-0. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: Senate Bill 169 would encourage families at any time in a child's life beginning at birth to begin to save in a tax deferred, state managed account for college tuition. The self-supporting plan established in SB 169 would be administered by the state's treasurer's office overseen by an advisory commission. The investment vehicle would be selected through a competitive bidding process managed by the state treasurer and approved by the commission. Monies would be held in an interest bearing tax deferred account and payments to the plan could be made through payroll deductions. At a time when New Hampshire is forty-second in the nation and last in New England in spending for higher education, this college savings plan makes sense. We need to make it easier for parents and families to save for their children's education and New Hampshire's future. I ask you to support SB 169 in that it meets the following goals. It encourages individuals to save to help pay the costs of higher education. It helps make the benefits of higher education available to the people of the state. It promotes economic development for the state by creating opportunities for a more highly educated workforce. It enables the residents of the state to benefit from tax incentives provided for qualified state tuition programs under the internal revenue code. It attracts students to public and private colleges and universities within the state. Please join me and the Senate Education Committee in recommending that SB 169 be ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 49-FN, clarifying certain procedures under the lead paint law. Finance Committee. Vote: 6-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAIS: Senate Bill 49 was referred to Finance from the Public Affairs Committee where it met with no opposition. This bill is a request of the Department of Health and Human Services to clarify procedures under the existing lead paint law. Senate Bill 49 would ease the burden of property owners in complying with the existing law. While still protective of children, changes to existing law create more reasonable time frames to abate lead violations and conduct cleanup, permit variances and requirements, and allows unlicensed individuals to conduct low risk abatement activities with the approval of a licensed abatement contractor. The fees to be collected for certification of training provisions will generate an insignificant amount of revenue, no more than one thousand five hundred dollars per year that would go to the lead poisoning prevention fund and be used to carry out the provision of the statute. This act shall take effect 60 days after passage. The Finance Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 90-FN, requiring all proposed legislation affecting independently owned small businesses to include an analysis of the cost of the legislation. Finance Committee. Vote: 6-0. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, SB 90 was referred to the Finance Committee from Internal Affairs where it met with no opposition. This bill would require all bills or resolutions that would affect independently owned small businesses to include a fiscal note prepared by the legislative budget assistant. This note would reflect the cost of the legislation on small businesses which employ fewer than one hundred employees. This bill also amends the requirement for fiscal impact statements for proposed administrative rules affecting small businesses by increasing the number of employees to one hundred. The office of the Legislative Budget Assistance has determined that SB 90 has a total fiscal impact of less than ten thousand dollars in the fiscal years 1997-2001. This act will take effect 60 days after passage. The Finance Committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 94-L, relative to the financing of the New Hampshire civic center commission. Finance Committee. Vote: 6-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAIS: Senate Bill 94 Local, an act relative to the financing of the New Hampshire civic center commission, would clarify an additional method of financing for this project. Senate Bill 94 Local, gives the added authority to the commission to use tax incremental financing as an instrument for financing the civic center. Tax incremental financing is a way for a community to create a district for improvement without adding to the local taxpayer burden. At the time SB 521 was passed in the 1996 session, it was not anticipated that a tax increment financing district would be needed. This bill also allows the city to receive community federal development block grant money for the project. This bill shall take effect 60 days after its passage. The Finance Committee recommends SB 94 as ought to pass.

SENATOR LARSEN: Mr. President and members of the Senate, I want to thank the Senate Finance Committee and the chair for holding a very fair hearing on this bill. As Senator Danaïs explained, it allows the city to create a tax increment finance district. I know that some of you have wondered about what a tax increment finance district does to the taxpayers of this city. The city council has reviewed this issue and the question of whether to hold a second referendum in the city was discussed, and was voted down 9-4 by the city council. The tax increment finance district, just for all of you who haven't been as involved in this project understand, does not increase an additional burden on the taxpayers, but instead, allows for the increased value of the property to be put aside to pay off the bond for the road improvements that we need to be able to recreate what you lost in the Highway Hotel, the much needed meeting room space that this city needs. The tax increment finance district will not result in any added burden to the taxpayers of this city, yet it will mean that we can do the necessary road improvements for the improvement of the area over by 393, exit 15. It will allow for the improvements of that land and the addition of the much needed meeting room

space and trade show space that a capital city so needs right now. I ask for your support for this bill, with the understanding that we are not increasing taxpayer burden. Thank you.

Adopted.

Ordered to third reading.

Senators Francoeur and D. Wheeler are in opposition to SB 94.

SB 95-FN-A, establishing a child day care training and recruitment fund and making an appropriation therefor. Finance Committee. Vote: 6-0. Inexpedient to legislate, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill would have established a child day care training and recruiting fund in the amount of five hundred thousand dollars each year of the biennium that would be one million dollars. I know that the Department of Health and Human Services was opposed to this bill for the simple reason, they thought that this could be taken care of during their reorganization, and that they would deal with the issue. I have to admit that the spending of this magnitude, that the Senate Finance Committee felt that we should address this through the budget process and I have assured Senator Squires that I would, as a member of the Senate Finance Committee, do everything that I can to see that this might come, it is too early for us, but let us let the budget process take its course and then we will go from there. The committee was unanimous in its inexpedient to legislate motion.

SENATOR SQUIRES: I rise not to dispute the committee's decision, but rather to reiterate two points: the importance of proper care in education for young children; secondly, to reiterate the fact that welfare reform, whether we like it or not, has forced on us a new set of circumstances and that as we go forth, I think, that we need to continually educate ourselves, and remind ourselves, of this new world that we are entering into, and try to understand the consequences of not only doing things, but not doing things. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 146, establishing a committee to study the issue of reducing the number of years of service required to be vested in the retirement system plan from 10 years to 5 years. Finance Committee. Vote: 6-0. Ought to pass, Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: Senate Bill 146 was referred to the Finance Committee from the Senate Insurance Committee where it met with no opposition. This bill would establish a committee to study the issues of reducing the number of years of service required to be vested in the retirement system plan from ten years to five years. The federal requirement now to be vested is five years. We think that this is an important piece of legislation to look into. This bill will take effect sixty days after passage. The Senate Finance Committee recommends its passage of ought to pass.

Adopted.

Ordered to third reading.

SB 48-FN, to provide an optional retirement program for certain employees of the department of regional community-technical colleges. Insurance Committee. Vote: 5-2. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, I rise in support of SB 48 that has been reported out of the Senate Insurance Committee ought to pass with a vote of five to two. Senate Bill 48 will provide the same options in the retirement program for faculty and senior administrative staff of the community technical college as is currently available as a benefit to the faculty and staff at the University System and community college faculty in forty-three other states. Senate Bill 48 has been drafted to reflect the findings of a joint legislative study committee that has carefully reviewed this subject last fall. The majority members of the Senate Insurance Committee firmly believe that the SB 48 presents a fair compromise by including those only academic and senior administrative personnel who are most likely to take advantage of the optional retirement program. New Hampshire must be positioned to attract the most qualified educators for academic positions within our community technical college system. The optional retirement program proves the state's system authority to be competitive with public and private academic institutions throughout New England, across the nation. Despite claims by the unions, the evidence from other states that have adopted this optional retirement program convincingly demonstrates that the number of state employees choosing the optional program will have an insignificant effect on the state retirement system. On behalf of the community technical college system, I thank you for your support of SB 48. I urge you to vote ought to pass on this important bill, which is designed to attract the most qualified educators for the benefit of generations of community college students to come. Thank you, Mr. President.

SENATOR J. KING: I rise in opposition to this bill. I think that the retirement system that we have now is one of the best that you can have. If you start to open up the doors, it could spread and spread and hurt one of the best retirement systems in the country. We have one group here that wants to change it for their own benefit. They can have it, if they join just like everybody else. Next year or the year after, you could have someone from another group that could be doctors or lawyers or some other group or firefighters or someone else, and they're going to want to take some other thing besides that. So leave a good system alone. If they want to join our system, let them join up just like anybody else that is joining the ranks.

Adopted.

Ordered to third reading.

Senator F. King in opposition to SB 48.

SB 72, relative to the New Hampshire life and health guaranty association. Insurance Committee. Vote: 8-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-0271s

09/01

Amendment to SB 72

Amend the title of the bill by replacing it with the following:

AN ACT relative to the New Hampshire life and health guaranty association, changing the order of distribution for policy holders and claimants in the case of insurer insolvency and repealing the law relative to the interstate insurance receivership compact.

Amend the bill by replacing all after section 5 with the following:
6 Order of Distribution. Amend RSA 402-C:44 to read as follows:

402-C:44 Order of Distribution. The order of distribution of claims from the insurer's estate shall be as stated in this section. The first \$50 of the amount allowed on each claim in the classes under paragraphs ~~[HH through V]~~ **II, VI, and VII** except claims of the guaranty associations as defined in RSA 404-B and 404-D shall be deducted from the claim. Claims may not be cumulated by assignment to avoid application of the \$50 deductible provision. Subject to the \$50 deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class.

I. Administration Costs. The costs and expenses of administration, including but not limited to the following: the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees.

~~[HH.]~~ **II. Policy Related Claims.** All claims by policyholders, including claims for unearned premiums in excess of \$50, beneficiaries, and insureds arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and liability claims against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company and claims of the New Hampshire Insurance Guaranty Association, the New Hampshire Life and Health Guaranty Association and any similar organization in another state. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds or investment values, shall be treated as loss claims. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to ~~[his]~~ **the employer's** employee shall be treated as a gratuity.

III. Claims of a Ceding or Assuming Insurer Under a Reinsurance Contract.

IV. Federal Government Tax Claims.

~~[H.]~~ **V. Wages.**

(a) Debts due to employees for services performed, not to exceed \$1,000 to each employee which have been earned within one year before the filing of the petition for liquidation. Officers shall not be entitled to the benefit of this priority.

(b) Such priority shall be in lieu of any other similar priority authorized by law as to wages or compensation of employees.

~~[IV.]~~ **VI. Residual Classification.** All other claims including claims of the federal or any state or local government, not falling within ~~[other classes under this section]~~ **the class of claims under paragraph IV.** Claims, including those of any governmental body, for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph ~~[VII]~~ **IX.**

[V.] VII. Judgments. Claims based solely on judgments. If a claimant files a claim and bases it both on the judgment and on the underlying facts, the claim shall be considered by the liquidator who shall give the judgment such weight as he deems appropriate. The claim as allowed shall receive the priority it would receive in the absence of the judgment. If the judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment shall be treated as if it were a claim based solely on a judgment.

[VI.] VIII. Interest on Claims Already Paid. Interest at the legal rate compounded annually on all claims in the classes under paragraphs I through [V] VII from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court, may make reasonable classifications of claims for purposes of computing interest, may make approximate computations and may ignore certain classifications and time periods as de minimis.

[VII.] IX. Miscellaneous Subordinated Claims. The remaining claims or portions of claims not already paid, with interest, as in paragraph [VI] VIII:

- (a) Claims under RSA 402-C:39, II;
- (b) Claims subordinated by RSA 402-C:61;
- (c) Claims filed late;
- (d) Portions of claims subordinated under paragraph [IV] VI;

(e) Claims or portions of claims payment of which is provided by other benefits or advantages recovered or recoverable by the claimant.

[VIII.] X. Preferred Ownership Claims. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate shall be added to each claim, as in paragraphs [VI] VIII and [VII] IX.

[IX.] XI. Proprietary Claims. The claims of shareholders or other owners.

7 Repeal. RSA 402-I, relative to the interstate insurance receivership compact, is repealed.

8 Effective Date:

I. Sections 1-6 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill clarifies that the New Hampshire life and health insurance guaranty association established in RSA 408-B:6 is the same association created in RSA 404-D:6, and makes related technical corrections.

The bill changes the order of priority of distribution for policy holders and claimants in the case of insurer insolvency.

The bill also repeals the interstate insurance receivership compact.

SENATOR FRASER: Mr. President, this bill simply clarifies the statute defining the Life and Health Insurance Guaranty Associations Board. A few years ago a measure was passed that said that any insurer that becomes insolvent after January 1, 1996 would be governed under RSA 408-B:6 and that those becoming insolvent before that date would be governed by RSA 404-D:6. Because of the discrepancy in the statutes, effectively two boards were created. This bill clarifies that the only intent was to have one board. The amendment, Mr. President, would allow New Hampshire to withdraw from the interstate compact. Only three other states join New Hampshire in this compact, all from the Midwest. New Hampshire continues to pour money into this compact

through labor and travel costs. It is unlikely that other states will join. One reason that other states are not joining is the dispute over the rulemaking authority. If New Hampshire were to stay in the compact, it is likely that the three Midwestern states would constantly overrule New Hampshire in the rulemaking process. The committee recommends that this bill be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 147, relative to forms and rates of industrial insurance policies. Insurance Committee. Vote: 7-0. Inexpedient to legislate, Senator Danaïs for the committee.

SENATOR DANAIS: This bill would have exempted industrial insurance policies from the form approval and rates filing in the Insurance Department. Concerns were raised that the threshold for the exemption was too low. As prime sponsor, I requested the recommendation be inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 165, relative to Medicare and health maintenance organizations and small employer and individual insurance. Insurance Committee. Vote: 7-0. Ought to pass with amendment, Senator Squires for the committee.

1997-0293s

08/09

Amendment to SB 165

Amend RSA 420-B:8, VI as inserted by section 2 of the bill by replacing it with the following:

VI. All advertising intended for use in this state whether through written, radio, or television medium shall be submitted to the commissioner of this state for review and approval by the commissioner prior to use, except that the commissioner may waive prior approval for any such materials which the department of health and human services has approved for use in the Medicaid program.

SENATOR SQUIRES: Mr. President, this bill clarifies that HMOs must receive prior approval for advertising in the Medicare market, which is just beginning to open up to HMOs in the state. The bill also clarifies that HMOs are still required to meet all insurance department's filing requirements when issuing Medicare policies, though they are not subject to state mandates for coverage. The coverage requirements are determined by the federal government. Because they make the payments, the bill also changes the minimum participation requirements for employees of small employers. Currently, seventy-five percent of employees not currently enrolled in a program for insurers to be required to issue to the group. This bill changes the percentage to thirty-three percent of all employees of the business that better represents what the small group is. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 171-FN, establishing a consumer advocate position in the insurance department. Insurance Committee. Vote: 7-0. Inexpedient to legislate, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: As prime sponsor of this bill, I asked the committee to recommend it as inexpedient to legislate. This by no means indicates that the support for the position of consumer advocate in the Insurance Department has waned. I still believe that the position is needed and that establishing the position would be a benefit to the public. At this time, however, the Senate Insurance Committee is considering SB 132 that has a part that will establish this position. I believe that bill is a better place for consideration of establishing the consumer advocate position. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 163, relative to the Uniform Anatomical Gift Act. Judiciary Committee. Vote: 7-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-0284s

01/09

Amendment to SB 163

Amend the bill by replacing section 1 with the following:

1 Uniform Anatomical Gift Act. RSA 291-A is repealed and reenacted to read as follows:

CHAPTER 291-A

UNIFORM ANATOMICAL GIFT ACT

291-A:1 Short Title. This chapter may be cited as the "Uniform Anatomical Gift Act."

291-A:2 Definitions. In this chapter:

I. "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death.

II. "Decedent" means a deceased individual and includes a stillborn infant or fetus.

III. "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle driver's license, a will, or other writing used to make an anatomical gift.

IV. "Donee" means the recipient or recipients of the donated organ or organs.

V. "Donor" means an individual who makes an anatomical gift of all or part of the individual's body.

VI. "Enucleator" means an individual who is licensed by the state board of registration of funeral directors and embalmers to remove or process eyes or parts of eyes pursuant to RSA 325:31-a.

VII. "Hospital" means a facility licensed, accredited, or approved as a hospital under the laws of any state, or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

VIII. "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body.

IX. "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity.

X. "Physician" or "surgeon" means an individual licensed under RSA 329.

XI. "Procurement organization" means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts.

XII. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

291-A:3 Making, Amending, Revoking, and Refusing to Make Anatomical Gifts by Individual.

I. Any individual of sound mind and 18 years of age or more may:

(a) Make an anatomical gift for any of the purposes stated in RSA 291-A:7, I;

(b) Limit an anatomical gift to one or more of the purposes stated in RSA 291-A:7, I; or

(c) Refuse to make an anatomical gift.

II. An anatomical gift shall be made only by a document of gift signed by the donor. If the donor cannot sign, the document of gift shall be signed by another individual and by 2 witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and shall state that it has been so signed.

III. If a document of gift is attached to or imprinted on a donor's motor vehicle driver's license, the document of gift shall comply with paragraph II or RSA 263:41, I. Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

IV. A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift shall employ or authorize any physician, surgeon, or enucleator to carry out the appropriate procedures.

V. An anatomical gift by will takes effect upon the death of the testator, whether or not the will is probated. If, after the death of the testator, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

VI. A donor may amend or revoke an anatomical gift, not made by will, only by:

(a) A signed statement.

(b) An oral statement made in the presence of 2 witnesses.

(c) Any form of communication during a terminal illness or injury addressed to a physician or surgeon.

(d) The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

VII. The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills under RSA 551, or as provided in paragraph VI.

VIII. An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

IX. An individual may refuse to make an anatomical gift of the individual's body or part by:

(a) A writing signed in the same manner as a document of gift;

(b) A statement attached to or imprinted on a donor's motor vehicle driver's license;

(c) Any other writing used to identify the individual as refusing to make an anatomical gift; or

(d) An oral statement or other form of communication addressed to a physician or surgeon during a terminal illness or injury.

X. In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under RSA 291-A:4 or on a removal or release of other parts under RSA 291-A:5.

XI. In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to paragraph IX.

291-A:4 Making, Revoking, and Objecting to Anatomical Gifts, by Others.

I. Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

- (a) The spouse of the decedent.
- (b) An adult son or daughter of the decedent.
- (c) A parent of the decedent.
- (d) An adult brother or sister of the decedent.
- (e) A grandparent of the decedent.
- (f) A guardian of the person of the decedent at the time of death.

II. An anatomical gift shall not be made by a person listed in paragraph I if:

(a) A person in a prior class is available at the time of death to make an anatomical gift;

(b) The person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(c) The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

III. An anatomical gift by a person authorized under paragraph I shall be made by:

(a) A document of gift signed by the person; or

(b) The person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

IV. An anatomical gift by a person authorized under paragraph I shall be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, or enucleator removing the part knows of the revocation.

V. A failure to make an anatomical gift under paragraph I is not an objection to the making of an anatomical gift.

291-A:5 Authorization by Medical Examiner or Funeral Director.

I. The medical examiner shall release and permit the removal of a part from a body within that official's custody, for transplantation or therapy, if:

(a) The official has received a request for the part from a hospital, physician, surgeon, or procurement organization;

(b) The official has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and inform persons listed in RSA 291-A:4, I of their option to make, or object to making, an anatomical gift;

(c) The official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in RSA 291-A:4, I;

(d) The removal will be by a physician, or surgeon; but in the case of eyes, by one of them or by an enucleator;

(e) The removal will not interfere with any autopsy or investigation;

(f) The removal will be in accordance with accepted medical standards; and

(g) Cosmetic restoration will be done, if appropriate.

II. If the body is not within the custody of the medical examiner, the funeral director shall release and permit the removal of any part from a body in the funeral director's custody for transplantation or therapy if the requirements of paragraph I are met.

III. A medical examiner or funeral director releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

291-A:6 Routine Inquiry and Required Request; Search and Notification.

I. On or before admission to a hospital, or as soon as possible thereafter, a person designated by the hospital shall ask each patient who is 18 years of age or more if the patient is an organ or tissue donor. If the patient is such a donor, the person designated shall request a copy of the document of gift. If the patient is not such a donor or does not answer, and the attending physician consents, the person designated shall discuss with the patient the option to make or refuse to make an anatomical gift. The patient's answer, an available copy of any document of gift or refusal to make an anatomical gift, and any other relevant information, shall be placed in the patient's medical record.

II. If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, a person designated by the hospital shall, unless the attending physician determines otherwise, discuss the option to make or refuse to make an anatomical gift and request the making of an anatomical gift pursuant to RSA 291-A:4, I. The request shall be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in RSA 291-A:7. An entry shall be made in the medical record of the patient, stating the name and affiliation of the individual making the request, and of the name, response, and relationship to the patient of the person to whom the request was made. The commissioner of health and human services shall adopt rules, under RSA 541-A, to implement this paragraph.

III. The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(a) A law enforcement officer, fire fighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

(b) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

IV. If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by subparagraph III(a), and the individual or body to whom it relates is taken to a hospital, the hospital shall be notified of the contents and the document or other evidence shall be sent to the hospital.

V. If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to RSA 291-A:4, I, or a re-

lease and removal of a part has been permitted pursuant to RSA 291-A:5, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

VI. A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

291-A:7 Persons Who may Become Donees; Purposes for Which Anatomical Gifts may be Made.

I. The following persons may become donees of anatomical gifts for the purposes stated:

(a) A hospital, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science;

(b) An accredited medical or dental school, college, or university for education, research, or advancement of medical or dental science; or

(c) A designated individual for transplantation or therapy needed by that individual.

II. An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital.

III. If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under RSA 291-A:4, I, the donee shall not accept the anatomical gift.

291-A:8 Delivery of Document of Gift.

I. Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

II. If an anatomical gift is made to a designated donee, the document of gift, or a copy, shall be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

291-A:9 Rights and Duties at Death.

I. Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under RSA 291-A:12, II. A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.

II. The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time

of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to RSA 291-A:3, IV.

III. If there has been an anatomical gift, an appropriate physician or surgeon may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

291-A:10 Coordination of Procurement and Use. Each hospital in this state, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

291-A:11 Sale or Purchase of Parts Prohibited.

I. A person shall not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

II. Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

III. A person who violates this section is guilty of a felony and, notwithstanding RSA 651:2, upon conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 5 years, or both.

291-A:12 Examination; Autopsy; Liability.

I. An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

II. The provisions of this chapter are subject to the laws of this state governing autopsies.

III. A hospital, physician, surgeon, medical examiner, funeral director, enucleator, or person acting on behalf of one of the preceding, who acts in accordance with this chapter or with the applicable anatomical gift law of another state or attempts in good faith to do so, is not liable for that act in a civil action or criminal proceeding.

IV. An individual who makes an anatomical gift pursuant to RSA 291-A:3 or RSA 291-A:4 and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

291-A:13 Transportation and Preservation. Notwithstanding any law or rule to the contrary, if a donee is an accredited medical or dental school and it accepts a gift of the entire body for the purposes of medical research and education, the school shall be responsible for all transportation arrangements and for all preservation procedures for such body. The preservation procedures shall be the responsibility of the donee institution and shall be conducted according to procedures in common use among American medical and dental schools. The provisions of RSA 325 shall not apply to this section.

291-A:14 Release of Corneas for Transplantation; Liability.

I. Upon request of the New England Eye Bank located in Boston, Massachusetts, the chief medical examiner, or designee, may release the cornea of a decedent to the New England Eye Bank under the following conditions:

(a) The body of the decedent is under the jurisdiction of the chief medical examiner, in accordance with RSA 611 or RSA 611-A.

(b) A period of one hour has elapsed after the chief medical examiner, or designee, has notified such eye bank and the eye bank has received notification that the cornea of the decedent is available for transplant, and during such period the eye bank has made a good faith effort to notify decedent's spouse or next of kin that a transplant is proposed.

(c) No objections to the donation were made known by the decedent prior to his death or by the decedent's spouse or next of kin or by an agent of the decedent to the chief medical examiner or designee.

(d) The removal of the cornea for transplant will not alter the decedent's facial appearance.

II. A log, available at the New England Eye Bank, shall contain the time of the notification by the chief medical examiner, or designee.

III. No medical examiner, physician, or eye bank, acting under the provisions of this section, shall be liable in any criminal or civil action brought as a result of a release of the decedent's cornea if a good faith effort was made to notify decedent's spouse or next of kin of such transplant.

291-A:15 Uniformity of Application and Construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. The probate court shall have jurisdiction for any actions under this chapter, except for those under RSA 291-A:11.

291-A:16 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SENATOR FRANCOEUR: Senate Bill 163 is an update of existing law regarding anatomical gifts. There have been many technical advances that necessitate a change to this law. The process to make anatomical gifts is made easier. Nineteen other states have adopted this type of legislation. The document of gift no longer needs to be witnessed nor is the consent of the next of kin needed. Hospitals are required to ask if the person is an organ donor. This will avoid situations where the intent is not known by the hospital. The family is also asked about anatomical gifts if the patient has not signed any documents authorizing an anatomical gift. The law also prohibits and criminalizes the illegal sale of body parts or organs. Unfortunately, that has occurred in some states. Our present law does not prohibit the sale of body parts. The law also allows corneas to be donated to the New England Eye Bank.

Amendment adopted.

Ordered to third reading.

SB 176-FN, relative to late payment of the legacies and successions tax. Judiciary Committee. Vote: 7-0. Ought to pass with amendment, Senator Squires for the committee.

1997-0275s

08/09

Amendment to SB 176-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Estimated Tax; Legacies and Successions. Amend RSA 86:90, VI to read as follows:

VI. The failure to file returns, except for good cause shown, the filing of fraudulent returns or the making, causing to be made or permitting to be made any false entry in the books or records of the estate with the intent to defraud the state or to evade the payment of the tax or any part thereof shall subject the executor or administrator to the penalties provided in RSA 21-J for such actions; *provided, however, that if a*

person should fail to file a return within 9 months of the decedents' death, that person may file an estimated tax return and, even if the final return cannot be completed, no further penalties or interest shall accrue as of the date the estimated return is filed.

2 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill provides that, where a person has failed to file a return within 9 months of the death of a decedent, the person may file an estimated return and accrue no further penalties or interest as of the date of filing.

SENATOR SQUIRES: Mr. President, I would like to yield the presentation of SB 176 to Senator Gordon.

SENATOR GORDON: Senate Bill 176 makes a technical change in the law that allows persons who have failed to make timely payment of their legacy and succession tax, to make an estimated payment and thereby prevent the accrual of additional penalties.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 177-FN, relative to the liability of prospective adoptive parents for court ordered services. Judiciary Committee. Vote: 7-0. Ought to pass with amendment, Senator Cohen for the committee.

1997-0278s

04/01

Amendment to SB 177-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Delinquent Children; Prospective Adoptive Parent; Liability Waiver. Amend RSA 169-B:40, VIII to read as follows:

VIII. Upon request by the adoptive parent *or prospective adoptive parent* of a child *in the custody of the state* whose birth parents *have consented to the adoption*, relinquished their parental rights to the department, or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, *authorized agency, or foster parent, pursuant to RSA 170-C:4*, the state~~[, acting through the commissioner, may]~~ *shall* waive its right of action against such adoptive parent *or prospective adoptive parent* for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. ~~[The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.]~~

2 Abused or Neglected Children; Prospective Adoptive Parent; Liability Waiver. Amend RSA 169-C:27, VIII to read as follows:

VIII. Upon request by the adoptive parent *or prospective adoptive parent* of a child *in the custody of the state* whose birth parents *have consented to the adoption*, relinquished their parental rights to the department, or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, *authorized agency, or foster parent, pursuant to RSA 170-C:4*, the state~~[, acting through the commissioner, may]~~ *shall* waive its right of action against such adoptive parent *or prospective adoptive parent* for all

or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. ~~[The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.]~~

3 Children In Need of Services; Prospective Adoptive Parents; Liability Waiver. Amend RSA 169-D:29 to read as follows:

VIII. Upon request by the adoptive parent *or prospective adoptive parent of a child in the custody of the state* whose birth parents *have consented to the adoption*, relinquished their parental rights to the department, or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, *authorized agency, or foster parent, pursuant to RSA 170-C:4*, the state~~;~~ ~~acting through the commissioner, may~~ *shall* waive its right of action against such adoptive parent *or prospective adoptive parent* for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. ~~[The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.]~~

4 Effective Date. This act shall take effect 60 days after its passage.

SENATOR COHEN: In making its unanimous decision of ought to pass with amendment, the Judiciary Committee aims to remove a significant barrier to the adoption of children who are in the state system. Currently, the law states that adoptive parents shall assume full financial responsibility should their adoptive children end up back in the state system. No prospective adoptive parent can anticipate this situation. But as it stands, the threat of financial liability proves to be a major deterrent to full adoption. As a result, the state ends up incurring the ongoing costs of keeping these children in foster homes and ending up providing additional services. Even worse, children remain wards of the state, rather than being placed in permanent, real homes. This legislation would exempt adoptive parents from having to be held liable for the costs of court ordered services if their children end up in the state system. The amendment just clarifies the original intent and adds the language of "prospective adoptive parents." I hope that you will join the members of the Judiciary Committee in voting ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 55-FN-L, relative to real estate seized in the town of Croydon for unpaid taxes. Public Affairs Committee. Majority report: Vote: 4-1, Inexpedient to legislate, Senator Whipple for the committee. Minority report: Vote: 1-4, Ought to pass, Senator Rubens for the committee.

SENATOR WHIPPLE: Because the company involved is getting a tax break having qualified for current use status, and because even the 18 percent interest accrued on the unpaid taxes will not cover the town's administrative costs, and finally because in this particular instance, it took the company seven years to try to repay back taxes, the committee recommends SB 55-FN-L as inexpedient to legislate. Property redemption methods by former tax owners are more universally addressed in SB 56-FN, which is currently being considered by a subcommittee of the Public Affairs Committee.

SENATOR RUBENS: I would like to offer a substitute motion of ought to pass. If that is successful, to provide an amendment, I would like to

address that issue. This bill and the amendment that I am about to propose, which was addressed in the committee, was argued to infringe upon local control. What this is actually doing, when you boil down this matter, you come down to the question of shall local control rise to the point where it creates a permission to engage in unconstitutional fifth amendment of taking of property? I would like to read the single case that has come before the New Hampshire Supreme Court on point on this question. I would like to read a concurring opinion by Justice Horton of our New Hampshire Supreme Court on this issue. "Thus, I would find the notice adequate" and here is the key part of this quotation, "But would hold that the statutorial alternative tax lien procedure is constitutional only if it is read to provide for taking of the taxable property only to the extent of the lien." The issue at question here is that there are certain towns in the state, almost all of the towns in the state have adopted the new tax lien procedure. The law, as passed, permits a town to take, by tax lien, a piece of property for which a property taxpayer has not paid their taxes, and the town may liquidate that property and retain the entire amount of the liquidation, i.e. they may take from the property owner, an amount beyond the amount of the lien. Now the lien, in the amendments that I am going to propose, covers the towns and holds the town harmless for all of the back taxes accrued through any period of time that any compensation is repaid to the owner or that the owner may be allowed by the town to reacquire the property. So the town is held harmless for all back taxes. Eighteen percent interest on those back taxes, all administrative fees, all legal costs. The town, in this case, is held completely harmless. All that we are doing here in this proposal is that we are creating fairness. As the fifth amendment to the United States Constitution and our own New Hampshire Constitution requires. The tax lien procedure, according to Justice Horton, is not designed to enrich the town. What we are talking about here in this bill is a particular property owner, it happens to be a large multi-national corporation, so therefore easy to fire at. This large organization had an administrative lapse, they acknowledged that, but they are not asking the town to forfeit the back taxes, the interest, the legal fees, the administrative costs, the fines, they are not asking for that. They are only asking for their property TAPE INAUDIBLE back again and holding the town harmless, in a manner that is entirely constitutional. Now the problem is that this town of Croydon, that this bill is aimed at, uses procedures that differ, depending on who the applicant is who wants their tax lien property taken back again. There are certain people whose property, and I think that those of us on the floor, here, know who those people are, who are able to go to the town of Croydon and get their property back again, even after it is tax lien and deeded to the town. Other people are unable to do that. I think that it depends, strictly and solely, on who you are and what kind of friendship that you can obtain, it appears to me, with the town leadership. I will give you two examples, one of whom is the entity in question here, the large corporation. The other one is a poor family, the Quinns, in the late eighties, who went through a divorce, they failed to pay their taxes and the town took their property, as they should. Then the town took the net profits after they liquidated the property, and they renovated the town hall. The question that we are facing here on this bill, is whether the town should profit at the expense of stupid or unfortunate or maladministered organizations, whether large or small, at the expense of those organizations in order to provide town services. In this case, that the voters in the town of Croydon in the case

of renovation of the town hall, would not vote to support. So what I am arguing, for here, is simple fairness and the likelihood that if we don't rectify this situation, in this case, it probably will go to the Supreme Court and be overturned and then require an entity to cover the expense of going before the Supreme Court simply to enforce the fifth amendment of the U.S. Constitution and our own New Hampshire Constitution. Secondly, those who can't afford attorneys to go to the Supreme Court, like the Quinns, are shut out. So shall we, in essence, by voting to stop this bill and this amendment, voting against it, the ought to pass motion? Shall we say that certain people who have pull in particular towns, those three percent of towns who don't voluntarily give back the net proceeds, shall we compel them to engage in friendly relations with selectmen and etceteras and leaving out and not protecting those who can't obtain such friendly relationships? Shall we do that? Shall we vote for that? I submit no. I therefore request and advise a yes vote on the substitute motion of ought to pass. I also ask for a roll call vote.

SENATOR BARNES: Senator Rubens, do you believe in home rule?

SENATOR RUBENS: Absolutely. But not to the extent where home rule should not rise to the extent of forbidding unconstitutional fifth amendment taking of property.

SENATOR BARNES: Thank you, Senator.

Senator Rubens offered a floor amendment.

1997-0356s

08/01

Floor Amendment to SB 55-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 Town of Croydon. Any former property owner in the town of Croydon whose real property has been seized for unpaid taxes as a result of lack of actual notice of such unpaid taxes, and which has not been auctioned off by the town prior to January 1, 1997, for nonpayment of taxes may recover, during the calendar year 1997, upon written request to the town selectmen, the property in return for payment of all back taxes as if accrued through the date of redemption, interest, penalties, and such other incidental and consequential costs as are reasonably incurred or estimated, including legal fees

AMENDED ANALYSIS

This bill allows any former property owner in the town of Croydon, whose property was seized for failure to pay property taxes as a result of actual notice of such unpaid taxes, to recover the property in return for payment of all back taxes as if accrued through the date of redemption, interest, penalties and such other incidental and consequential costs as are reasonably incurred or estimated, including legal fees, if the property has not been auctioned prior to January 1, 1997.

SENATOR RUBENS: As the amendment is being passed out, I have a copy of Justice Horton's comments on this matter. It is part of my testimony. I have completed my conversation on the amendment, previously. Again, I urge your vote of ought to pass with amendment.

Recess.

Out of recess.

Question is on the floor amendment.

A roll call was requested by Senator Rubens.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: Rubens, Roberge, D. Wheeler, Francoeur.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, McCarley, Patenaude, Whipple, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Danais, K. Wheeler, Delahunty, Hollingworth.

Senator Cohen is excused.

Yeas: 4 - Nays: 19

Floor amendment failed.

Question is on ordering to third reading.

Motion failed.

Senator Hollingworth moved inexpedient to legislate.

Adopted.

SB 55 is inexpedient to legislate.

Senator Patenaude offered the following Resolution:

1997 SESSION

97-1128

09/02

SENATE RESOLUTION 2

A RESOLUTION urging the New Hampshire congressional delegation to assist Loon Mountain Recreation Corporation in its efforts to continue its operation and urging the governor and the attorney general to take any appropriate legal action in support of Loon Mountain Recreation Corporation.

SPONSORS: Sen. Patenaude, Dist 7; Sen. Gordon, Dist 2

ANALYSIS

This senate resolution urges the New Hampshire congressional delegation to assist Loon Mountain Recreation Corporation in its efforts to continue its operation and urges the governor and the attorney general to take any appropriate legal action in support of Loon Mountain Recreation Corporation.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Seven

A RESOLUTION urging the New Hampshire congressional delegation to assist Loon Mountain Recreation Corporation in its efforts to continue its operation and urging the governor and the attorney general to take any appropriate legal action in support of Loon Mountain Recreation Corporation.

Whereas, New Hampshire ski areas are an important and integral part of New Hampshire's economy, providing thousands of jobs and contributing millions of dollars to local and state businesses; and

Whereas, Loon Mountain Recreation Corporation in Lincoln, New Hampshire has expended a great deal of effort over a period of years in developing an environmentally responsible plan for expanding its ski area; and

Whereas, the United State Forest Service held extensive hearings regarding Loon Mountain Recreation Corporation's application to expand its facilities on land in the White Mountain National Forest during which all interested parties, including conservation and environmental organizations, public officials and the general public were afforded a full and fair opportunity to raise any and all concerns which they had about the Loon Mountain Recreation Corporation proposal; and

Whereas, Loon Mountain Recreation Corporation addressed all major issues, identified in a manner that demonstrated its commitment to preserving the environment; and

Whereas, the plan to expand the ski area, including its use of water from the East Branch of the Pemigewasset River to augment that of Loon Pond for snowmaking, is supported by the North Country Council, the regional planning commission, and the town of Lincoln; and

Whereas, Loon Mountain Recreation Corporation proceeded to invest almost \$10 million in the expansion of its facilities in good faith relying upon the approval of its proposal as granted by the United States Forest Service; and

Whereas, now a resident of Maryland, and a single environmental group based in Concord, Massachusetts, have prevailed upon the United States First Court of Appeals to overrule the approval granted by the United States Forest Service; and

Whereas, a spokesperson for the environmental group has made it clear that they find it reprehensible that Loon Mountain Recreation Corporation would take further legal action in an attempt "to stay open for the rest of the season;" and

Whereas, the closure of the Loon Mountain Recreation Corporation would be detrimental to the economic well-being of the people of Lincoln and to other communities in the White Mountain Area, now therefore, be it

Resolved by the Senate:

That the New Hampshire state senate urges the New Hampshire Congressional delegation to recognize that this action and similar court actions constitute a serious threat to the well-being of their constituents; and

That the best efforts of the Congressional delegation are required to allow Loon Mountain Recreation Corporation to continue to operate as approved by the United States Forest Service, and that the delegation should introduce legislation to prevent such unwarranted attacks upon the well-being of the people of New Hampshire; and

That the New Hampshire state senate also urges the governor and the attorney general to take any appropriate legal action in support of Loon Mountain Recreation Corporation; and

That copies of this resolution, signed by the senate president, be forwarded by the senate clerk to the governor, governor's councilors, and to each member of the New Hampshire Congressional delegation.

SENATOR PATENAUDE: I rise to offer this resolution, urging the New Hampshire congressional delegation to assist Loon Mountain Recreation Corporation in its effort to continue its operation and urging the governor and the attorney general to take any appropriate legal action in support of Loon Mountain Recreation Corporation. I believe that every-

one has the resolution in their hands. I would like to offer a few extra remarks in addition to those outlined in the resolution. Both the individual and the organization that is challenged Loon Mountain and the National Forest Service, have entered the debate years after it had begun. Nearly every environmental organization imaginable has been involved in the process that Loon Mountain Recreation Corporation has endured. Some of these include the New Hampshire Audubon Society, the Society to Protect New Hampshire Forests, The Appalachian Mountain Club, the Conservation Law Foundation and many more. These groups have appropriately recognized the proper and necessary balance between the environment and uses by responsible stewards of our natural resources. I urge my colleagues to support this resolution that lends its support to a responsible member of the business community in its quest for an expedited permit process from the federal EPA. Thank you very much.

SENATOR GORDON: I do represent the area involved, Loon Mountain. Perhaps a little bit of history if you aren't familiar with Loon Mountain. Lincoln, not that very long ago, was a mill town and a mill town without a mill. It was a dead town. Then along came a family, the Adams Family, and they developed the Loon Mountain Recreational Corporation. Since then, they bred new life into that part of the north country. Right now, Lincoln and Woodstock sit as a jewel just south of Franconia Notch. There is no question that the people in the north country, and we, should all believe that Loon Mountain is a socially responsible good citizen. There is no question in my mind, or anyone else's mind in the north country that they are a socially responsible and environmentally responsible good citizen. They engaged in this process over a course of years to come up and negotiate a balance between environmental needs and the economic needs of the north country. It appeared that all people were in agreement and they went forward. They made a substantial investment. They have invested as much as ten million in improving that area in the community. Now along comes someone down the road, long after the process has matured, and having done so, what they have done, is to say that, we don't care, we don't care if you put north country citizens out of work. We don't care if you have to close down the ski area. We don't care what that economic impact is going to be on the north country. I stand here and say that we all should be offended at this process and what is taking place. I hope that you will all support the resolution. Thank you, Mr. President.

SENATOR F. KING: This isn't the first time that this type of economic development project has been stopped in its tracks late in the process. There has to be a time when these issues come to closure, once and for all. We have to ask congress and we have to, in the state, make sure that once these entities who are moving forward with the project and have received all of their permits, received all of their approvals, and they actually start to do the construction and go forward. There has to be a way to prevent future court actions from stopping it. All that it takes in this society that we have today, is one person or one group, at this date, to step forward, to bring an action into court, to bring this whole project to a halt. There are all types of opportunities during the process for all of the interested parties to have a chance to be heard, all of the agencies to make their decisions. Once that happens, that should be the end of it. If we don't find a way to do that, we are going to see this happening over and over again. It just simply isn't fair and it makes no sense. It is our responsibility to make sure that these things don't happen.

SENATOR DANAIS: I stand and applaud my fellow senators who brought forward this resolution. As this body has seen this morning, we have voted on local control. We have been trying to give our communities local control, and we have spent a lot of time. This is a perfect example of letting local control go forward in economic development in New Hampshire. I just wanted to stand and support this resolution wholeheartedly. Thank you.

SENATOR BLAISDELL: I rise in strong support of this. I agree with your words, Senator Gordon that this is a great asset. I am deeply sorry that this morning on SB 15 that you didn't give the same courtesy to Senator Hollingworth in one of the other great natural assets that we have, the beach area of Hampton Beach. We should have looked into that, I wish that you would have gone along with her study committee.

Adopted.

SB 97-L, relative to polling hours in small towns. Public Affairs Committee. Vote: 6-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-0273s
05/09

Amendment to SB 97

Amend the bill by replacing section 1 with the following:
AN ACT relative to polling hours.

Amend the bill by replacing section 1 with the following:
1 Hours of Polling in Towns Modified. Amend RSA 659:4 to read as follows:

659:4 Hours of Polling in Municipalities.

I. At all state elections in towns and cities the polls shall open not later than [11] 8 o'clock in the morning and shall close not earlier than 7 o'clock in the evening. In cities, the city council shall determine the polling hours no later than 30 days prior to a state election.

II. Notwithstanding paragraph I, and notwithstanding 1994, 106:2, III, at any annual town meeting under an article inserted into the warrant pursuant to RSA 39:3, a town may vote to change the hours in which the polls shall open, provided that the polls shall not open later than 11 o'clock in the morning.

AMENDED ANALYSIS

This bill allows the legislative body of a town to vote, at any annual town meeting, to change the hours in which the polls shall open, provided that the polls shall not open later than 11 o'clock in the morning.

SENATOR PATENAUDE: Under legislation that passed in 1993, small towns whose normal business hours are until ten a.m. through late afternoon are required to maintain polls from eight a.m. to seven p.m., significantly extending polling hours beyond regular town office hours. Poll workers from small towns testified that of the two hundred or so registered voters, most people voted during regular town office hours. Those who did vote between 8 a.m. and ten a.m. were most often the poll workers, themselves. Senate Bill 97 is enabling legislation that allows local control of town polling hours. The committee recommends that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 143, authorizing a municipality to change the date for filing for an elderly exemption. Public Affairs Committee. Vote: 6-0. Inexpedient to legislate, Senator K. Wheeler for the committee.

Senator Roberge moved to recommit.

Adopted.

SB 143 is recommitted to the Public Affairs Committee.

SB 148, requiring that milk products known to contain the genetically produced bovine somatotropin growth hormone be so labeled. Public Institutions, Health and Human Services Committee. Vote: 5-2. Inexpedient to legislate, Senator Francoeur for the committee.

SENATOR FRANCOEUR: Senate Bill 148 would require the labeling of all milk products sold at retail and known by the milk producer or the distributor to contain genetically produced bovine somatotropin growth hormone to be done so conspicuously. The hormone somatotropin is being used by farmers to stimulate greater lactation in the cows. This hormone does occur naturally in the cow but additional amounts are being used to intensify the production of milk. There was significant opposition to this bill at the public hearing. Opponents argued that this hormone doesn't affect the nutrition or safety of the milk product. No test has been yet been developed to identify the existence of the hormone in milk because it doesn't occur naturally in milk. Both the commissioners from the Department of Agriculture and the state veterinarian, testified that they respect the consumers' rights for information, but are not worried about this product. Milk is a staple on a consumer's grocery list. This bill could potentially be increasing the price of milk products and discouraging business. Vermont, recently, has been opposed in court at a cost of almost seven hundred and fifty thousand dollars that was similar legislation to this requiring milk to be labeled. Thank you.

SENATOR LARSEN: Having sat through the hearing, although I support for the consumer to know what is in the milk that they purchase, we did hear that rather than requiring mandatory labeling of all products, that there is a voluntary process that any producer of milk who wishes to identify their milk as free of these substances can do so on their packaging. It sounded like the market would work better if it were a voluntary labeling by the producer, rather than a mandatory statement by the state. I just wanted to clarify that, that is why I voted with the majority.

Committee report of inexpedient to legislate is adopted.

SB 194-FN-A, establishing the safe youth fund to assist families in providing care and supervision for school-age youth and making an appropriation therefor. Public Institutions, Health and Human Services Committee. Split report: Vote: 4-4, Ought to pass, Senator K. Wheeler for the committee. Split report: Vote: 4-4, Inexpedient to legislate, Senator D. Wheeler for the committee.

LAID ON THE TABLE

Senator K. Wheeler moved to have **SB 194-FN-A**, establishing the safe youth fund to assist families in providing care and supervision for school-age youth and making an appropriation therefor, laid on the table.

Adopted.

SB 194 is laid on the table.

SB 114, requiring any person under 21 years of age who is convicted of any alcohol related offense to successfully complete an alcohol treatment program. Transportation Committee. Vote: 4-1. Inexpedient to legislate, Senator Patenaude for the committee.

SENATOR PATENAUDE: The Transportation Committee voted to make SB 114 inexpedient to legislate at the advice of the attorney general's office because the House is presently working on a couple of bills that address these issues more comprehensively. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 175, establishing a committee on the feasibility of installing rumble strips before toll booths. Transportation Committee. Vote: 5-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, SB 175 creates a legislative study committee to examine the possibilities of installing rumble strips before toll booths and on other locations along the state's highways. The Transportation Committee is concerned about the reckless manner in which people drive on the highway system and would like to look at the possibility to use rumble strips as a means of slowing people down at various points, such as toll booths and on ramps. The Transportation Committee unanimously recommends SB 175 ought to pass.

SENATOR JOHNSON: Senator Roberge, on my trip north and south on 93 from exit 23 down, we have rumble strips alongside the road. Was that done by legislation or did the DOT just put those in?

SENATOR ROBERGE: They did that on their own and there is a place further north, I believe, where there is a straight stretch of highway and they found that they tend to wake people up and keep them awake, where it is a very boring terrain to drive. But we felt that there are additional spots. I think that anyone in this room can at least think of one or two in their district that they feel that perhaps we should address the situation so that the people drive a little bit more slowly. It certainly does wake you up when you go over a rumble strip.

SENATOR GORDON: Would you believe that, I think, that DOT could probably make that decision without a study committee?

SENATOR ROBERGE: Well, we tell our department heads what to do all of the time.

Adopted.

Ordered to third reading.

SB 180-FN-A, relative to the maintenance, enhancement, and rehabilitation of local rural airport service and making an appropriation therefor. Transportation Committee. Vote: 5-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 180 is modeled after the Railroad Improvement Program in which state funds are made available through a revolving loan program for capital improvements. Currently, federal funds are available for larger airports. Unfortunately, money for smaller rural airports is much less accessible, despite many of these smaller airports being in desperate need of repairs. Senate Bill 180 is designed to make money available to the smaller airports as a Capital Improvement loan. Approximately 16 airports in New Hampshire will qualify for this program. Because this bill creates a loan program, the treasurer

does not believe that it will have any effect upon the state's ability to bond. The Transportation Committee unanimously recommends SB 180 as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 14, allowing a municipality to vote to prohibit the sale of liquor in certain areas of the municipality. Ways and Means Committee. Vote: 7-0. Inexpedient to legislate, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, the Ways and Means Committee recommend this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senator Francoeur in opposition to SB 14.

SB 183-FN, relative to liquor licenses for a sports/entertainment complex. Ways and Means Committee. Vote: 7-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAIS: Senate Bill 183 relative to liquor licenses for sports/entertainment complex allows the liquor commission to issue a license so that the owner or designee of a sports/entertainment complex to allow the sale or service of liquor and beverages in those areas approved by the commission. A sports/entertainment complex must have at least one permanent kitchen facility on site and has available hot and cold food available during the hours liquor and beverages are being sold. Beverages shall not only be sold when an administrative fee is charged for an event and excludes all intercollegiate athletic events. This act shall take place sixty days after passage. The Ways and Means Committee recommend this bill as ought to pass.

Adopted.

Ordered to third reading.

Senators Francoeur and D. Wheeler in opposition to SB 183.

Senator Rubens offered the following Resolution:

1997 SESSION

97-1127

03/02

SENATE RESOLUTION 3

A RESOLUTION requesting that the Federal Aviation Administration require emergency locator transmitters on all aircraft operating in United States airspace.

SPONSORS: Sen. Rubens, Dist 5; Sen. F. King, Dist 1; Sen. Gordon, Dist 2; Sen. Johnson, Dist 3; Sen. Fraser, Dist 4; Sen. McCarley, Dist 6; Sen. Patenaude, Dist 7; Sen. Whipple, Dist 8; Sen. Roberge, Dist 9; Sen. Blaisdell, Dist 10; Sen. D. Wheeler, Dist 11; Sen. Squires, Dist 12; Sen. Pignatelli, Dist 13; Sen. Francoeur, Dist 14; Sen. Larsen, Dist 15; Sen. Podles, Dist 16; Sen. Barnes, Dist 17; Sen. J. King, Dist 18; Sen. Russman, Dist 19; Sen. Danaïs, Dist 20; Sen. K. Wheeler, Dist 21; Sen. Delahunty, Dist 22; Sen. Hollingworth, Dist 23; Sen. Cohen, Dist 24

ANALYSIS

This senate resolution requests that the Federal Aviation Administration require emergency locator transmitters on all aircraft operating in United States airspace.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Seven

A RESOLUTION requesting that the Federal Aviation Administration require emergency locator transmitters on all aircraft operating in United States airspace.

Whereas, current Federal Aviation Administration rules exempt certain aircraft and certain flights from the emergency locator transmitter (ELT) requirements; and

Whereas, the absence of ELTs has increased the costs of public and private search and rescue operations following certain aircraft crashes; and

Whereas, the absence of ELTs has resulted in needless agony and uncertainty on the part of the families of certain aircraft crash victims; now, therefore, be it

Resolved by the Senate:

That the New Hampshire Senate hereby requests that the Federal Aviation Administration, on an expedited basis, adopt an amendment to 14 C.F.R., Part 91, requiring emergency locator transmitters of adequate power and crash resistance on all aircraft operating in United States airspace; and

That copies of this resolution, signed by the president of the senate, be forwarded by the senate clerk to the President of the United States, the Federal Aviation Administration, and to each member of the New Hampshire Congressional delegation.

SENATOR RUBENS: This resolution grew out of a hearing for the Transportation Committee two days ago. I introduced a bill to require TAPE INAUDIBLE be wiser to turn this into a resolution. I agreed with the committee. The resolution requests that the (FAA) Federal Aviation Administration, engage in rulemaking in an emergency expedited basis to require all aircraft in or landing or operating in U.S. airspace to be equipped with these emergency locator transponders. The cost of these devices ranges from one hundred and fifty thousand dollars to one thousand dollars, roughly. The value to this is that if an aircraft goes down, any aircraft, it can be located within hours. This can save lives, this can reduce to an extraordinary degree, grief and suffering by families who are burdened with uncertainty. The aircraft that recently crashed in or near Lebanon, New Hampshire, still has not been located two months later. Finally, if this was acted upon by the FAA, it could result in large savings of dollars. Finally, the FAA has not responded to requests by our own officials here in the state of New Hampshire as of yet, to conduct this emergency rulemaking. So we are hoping that this senate resolution prods them into more prompt action. Thank you very much.

SENATOR PIGNATELLI: Senator Rubens, the bill that you introduced is still before the Transportation Committee. Am I to assume that by your sponsoring this, that you will look very favorably on our sure-to-come inexpedient to legislate motion on that bill?

SENATOR RUBENS: Very favorably.

SENATOR PIGNATELLI: Thank you.

Adopted unanimously.

ANNOUNCEMENTS

SENATOR FRASER (RULE #44): Mr. President, I am not sure how many of my colleagues in the Senate received the same letter that I received attacking one of our colleagues. But if I had any doubt about how I was going to vote on a bill today, receiving such an onerous letter about one of our senators, that would have turned the screw for me. I just wanted, on behalf of the Senate, to apologize to that senator who was personally attacked in an effort by the writer, author, to enhance the merits of his legislation. I don't know if you have seen it, Mr. President, but it was pretty bad.

SENATOR DELAHUNTY (IN THE CHAIR): I have not, Senator Fraser.

SENATOR FRASER: I will see that you get a copy.

SENATOR DELAHUNTY (IN THE CHAIR): I would appreciate that.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that we be in recess for enrolled bill reports and amendments and House messages and introduction and referral of bills, and when we adjourn, we adjourn until Thursday, March 6, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 21, excepting persons who are 17 years old and graduated from high school from the youth employment law.

SB 39, relative to the delivery of bank products and services.

SB 48-FN, to provide an optional retirement program for certain employees of the department of regional community-technical colleges.

SB 49-FN, clarifying certain procedures under the lead paint law.

SB 72, relative to the New Hampshire life and health guaranty association, changing the order of distribution for policy holders and claimants in the case of insurer insolvency and repealing the law relative to the interstate insurance receivership compact.

SB 90-FN, requiring all proposed legislation affecting independently owned small businesses to include an analysis of the cost of the legislation.

SB 94-L, relative to the financing of the New Hampshire civic center commission.

SB 97-L, relative to polling hours.

SB 138, establishing teacher appreciation day.

SB 146, establishing a committee to study the issue of reducing the number of years of service required to be vested in the retirement system plan from 10 years to 5 years.

SB 154, relative to charter schools.

SB 155, requiring the division of educational improvement, department of education, to prepare and adopt a plan for providing special education to inmates in the state prison system and county correctional facilities.

SB 156, establishing a committee to study issues relating to providing special education services to eligible pupils who are incarcerated in the state prison system and county correctional facilities.

SB 163, relative to the Uniform Anatomical Gift Act.

SB 165, relative to Medicare and health maintenance organizations and small employer and individual insurance.

SB 175, establishing a committee on the feasibility of installing rumble strips before toll booths.

SB 183-FN, relative to liquor licenses for a sports/entertainment complex.

Senator J. King moved that the Senate be in recess until Thursday, March 6, 1997 at 10:00 a.m.

Adopted.

In recess.

Out of Recess.

INTRODUCTION OF SENATE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bill numbered 217 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committee.

Adopted.

First and Second Reading and Referral

97-1130

SB 217, relative to control of accessory uses on private land, including aircraft takeoffs and landings. (Sen. Barnes, Dist 17; Rep. David Welch, Rock 18; Rep. Flanders, Rock 18; Rep. Battles-Peirce, Rock 18; Internal Affairs)

LATE SESSION

Senator Barnes moved that the business of the day being completed, that the Senate now adjourn until Thursday, March 6, 1997 at 10 a.m.

Adopted.

Adjournment.

March 6, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

I have been visiting a woman in the hospital whose back was not strong enough to bear the pressure her living placed upon it – and it broke under the strain. To have a weak spine in this place is dangerous, too. Be firm so you can resist the clamoring voices of self interest that are all

around. They put a lot of weight upon you. To treat her condition, that individual I know had reinforcing rods and pins placed into her back by a surgeon. Now she is so rigid that she is debilitated by pain. For you to be inflexible and stiff here will cause you lots of pain — and it will hurt us, too. So know when to bend, for that is one major function of a healthy backbone. Greatness lies in knowing and living the balance between mushy compliance on the one hand and the rigor mortis of blind and unyielding opinion on the other.

Let us pray:

Bless the backbones of these twenty-four, O Lord, that they may be firm enough to bear the weight of their duties without crumbling under pressure, yet supple and pliant enough to enable them to look both to the right and to the left, for only part of Your truth is found on either of those sides.

Amen.

Senator Patenaude led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks concurrence of the Senate:

97-0026

HB 105, allowing an extension of time limits upon a showing of good cause for holding an adjudicatory hearing in certain delinquency cases. (Rep. Hunter, Hills 7; Rep. Emerton, Hills 7; Rep. R. Wheeler, Hills 7; Sen. Danaïs, Dist 20)

97-0050

HB 114, requiring members of conservation commissions to be residents of the city or town that they represent. (Rep. Abbott, Rock 19; Rep. Rubin, Rock 25; Rep. Schanda, Rock 19; Rep. M. Fuller Clark, Rock 36; Sen. Whipple, Dist 8)

97-0091

HB 129, relative to the definition of emergency services for health care insurance purposes. (Rep. Herman, Hills 13; Rep. M. Fuller Clark, Rock 36)

97-0130

HB 142, relative to false residency forms and automobile insurance. (Rep. Hunt, Ches 10; Rep. R. Krueger, Sull 9)

97-0192

HB 161, relative to pecuniary benefit transactions by charitable trusts. (Rep. Hunt, Ches 10; Rep. Lindblade, Sull 7; Rep. Syracuse, Rock 33; Rep. Allen, Hills 1; Rep. M. Fuller Clark, Rock 36; Sen. Rubens, Dist 5; Sen. J. King, Dist 18)

97-0207

HB 163, repealing the law which requires the commissioner of health and human services to deny the application or renewal of the license of an emergency medical technician convicted of driving while intoxicated. (Rep. Dolan, Rock 12; Rep. Dodge, Rock 4)

97-0227

HB 165, establishing a committee to study withdrawal from cooperative school districts. (Rep. Thulander, Hills 6)

97-0255

HB 188-FN, relative to the authority of the boxing and wrestling commission. (Rep. Beaulieu, Rock 10; Rep. Langer, Merr 11)

97-0041

HB 110, relative to the use of and school district liability for the use of district computer systems and networks. (Rep. Thomas, Belk 3)

97-0071

HB 123, relative to reduced speed limits in school zones during school openings and closings. (Rep. Beaulieu, Rock 10)

97-0155

HB 154-LOCAL, defining "legal resident" for purposes of school attendance. (Rep. Spear, Straf 5; Rep. Champagne, Ches 19; Rep. Synder, Straf 14; Rep. Yeaton, Merr. 10; Rep. Thulander, Hills 6)

97-0296

HB 194-FN, requiring any person erecting, installing, maintaining or exercising control over a mooring on Ossipee Lake to obtain a mooring permit from the division of safety services, department of safety. (Rep. Lyman, Carr 5)

97-0078

HB 205-LOCAL, relative to special ballots for unorganized places. (Rep. P. Bradley, Coos 6; Rep. Davis, Coos 1)

97-0244

HB 210, requiring that an applicant to a planning or zoning board wishing to subdivide property supply the names of holders of conservation, preservation, or agricultural preservation restrictions on the subdivision property, who will then be notified by the board. (Rep. Metzger, Ches 13; Rep. Hager, Merr 18)

97-0331

HB 215, relative to taxation of discretionary easements. (Rep. Philbrick, Carr 4; Rep. Owen, Merr 6)

97-0419

HB 219-LOCAL, repealing provisions relative to literacy instruction and the committee to study literacy and remedial instruction. (Rep. Spear, Straf 5; Rep. Champagne, Ches 19; Rep. Snyder, Straf 14; Rep. Feng, Hills 23)

97-0349

HB 226, relative to the composition of the aviation users advisory board. (Rep. Weyler, Rock 18; Rep. G. Katsakiores, Rock 13)

97-0593

HB 230, establishing a committee to study the school building aid system. (Rep. Stone, Rock 7; Rep. Hawkinson, Coos 7; Rep. Lynch, Ches 19; Rep. Ferguson, Hills 13; Rep. Nichols, Merr 2; Sen. Barnes, Dist 17; Sen. J. King, Dist 18)

97-0534

HB 267, prohibiting petroleum-powered motors on Little Dan Hole Pond in the town of Ossipee. (Rep. Lyman, Carr 5)

97-0004

HB 285, relative to the official name of the "Old Man of the Mountain." (Rep. MacNeil, Graf 7; Rep. M. Fuller Clark, Rock 36; Rep. Phinney, Graf 8; Rep. LaMott, Graf 5; Rep. Hinman, Graf 7)

97-0350

HB 296, relative to airways toll moneys and aircraft operating fee revenues. (Rep. Weyler, Rock 18; Rep. G. Katsakiores, Rock 13; Rep. Milligan, Hills 18)

97-0752

HB 321, correcting a reference to the American Podiatry Association. (Rep. B. Gage, Rock 26)

97-0812

HB 325, eliminating the correctional industries advisory board. (Rep. Knowles, Straf 11)

97-0990

HB 331, adopting the uniform foreign depositions law. (Rep. DePecol, Ches 14)

97-0564

HB 341, relative to filing lucky 7 applications with the sweepstakes commission. (Rep. C. Brown, Graf 14)

97-0665

HB 349, repealing certain pari-mutuel laws relative to racing funds, disbursements of the funds, and records of receipts. (Rep. C. Brown, Graf 14; Sen. Blaisdell, Dist 10)

97-0764

HB 424, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. (Rep. MacGillivray, Hills 21; Rep. Kaen, Straf 7; Rep. J. Bradley, Carr 8)

97-0096

HB 130, clarifying the authority of county commissioners to arrange for work by prisoners. (Rep. Noyes, Rock 26; Rep. David Welch, Rock 18; Rep. J. Flanders, Rock 18)

97-0444

HB 201-LOCAL, allowing municipalities to apply the amount of a property tax abatement refund to outstanding taxes owed by the taxpayer. (Rep. Noyes, Rock 26)

97-0356

HB 216, relative to municipal budgets. (Rep. Brundige, Hills 18; Rep. Coes, Rock 19; Rep. L. Foster, Hills 10; Sen. Roberge, Dist 9)

97-0423

HB 227-LOCAL, relative to North Hampton property taxes. (Rep. Rubin, Rock)

97-0455

HB 251-FN-LOCAL, reclassifying a portion of North Main Street in the town of Farmington and a portion of Passaconaway Road in the town of Albany. (Rep. Sullivan, Straf 3; Rep. G. Chandler, Carr 1; Rep. Spear, Straf 5; Rep. Tsiros, Straf 3; Sen. Fraser, Dist 4)

97-0067

HB 120-FN, amending certain license fees and making various technical changes to the fish and game laws. (Rep. Abbott, Rock 19)

97-0125

HB 140, relative to the sale of apples and relative to maple syrup and sap hydrometers and orders issued by the commissioner for noncompliance with the laws regulating maple and honey products. (Rep. Owen, Merr 6)

97-0154

HB 149-FN, relative to the regulation of the profession of physical therapy. (Rep. Dodge, Rock 4)

97-0178

HB 157, requiring persons marketing small consumer loans by offering inducement checks to print a disclosure on the inducement checks. (Rep. Melcher, Hills 11; Rep. Hunt, Ches 10)

97-0181

HB 158, creating a committee to study the establishment of a New Hampshire volunteer program. (Rep. Lovett, Graf 6; Rep. M. Fuller Clark, Rock 36)

97-0269

HB 189, excluding rooms and rental units leased or subleased from charitable organizations under a transitional housing program from the definition of "tenancy" for the purposes of landlord/tenant laws. (Rep. Franks, Hills 26)

97-0188

HB 208-LOCAL, relative to the status of roads laid out by the courts of common pleas or the county commissioners. (Rep. Thulander, Hills 6)

97-0527

HB 222-LOCAL, relative to pooled risk management programs. (Rep. Jacobson, Merr 2)

97-0437

HB 228, relative to the definition of "club-veterans" under the liquor laws. (Rep. Fenton, Hills 24; Rep. Hunter, Hills 7; Rep. Vincent, Straf 14; Rep. Rubin, Rock 25; Rep. Y. Coulombe, Coos 7)

97-0727

HB 254, relative to shared tenant telecommunication services. (Rep. J. Bradley, Carr 8; Rep. Howard, Carr 10; Sen. Johnson, Dist 3)

97-0287

HB 262-FN-A-LOCAL, establishing a National Information Infrastructure oversight committee. (Rep. Durham, Hills 22; Rep. O'Hearn, Hills 26)

97-0330

HB 264, relative to technical committees advising the director of the office of information technology management on technical issues. (Rep. S. Holley, Hills 28; Rep. LaMach, Merr 3; Rep. Hunt, Ches 10; Rep. Drabinowicz, Hills 36; Rep. Hansen, Hills 2; Sen. Larsen, Dist 15)

97-0481

HB 277, relative to the option to process absentee ballots before closing of polls. (Rep. McGovern, Rock 35)

97-0076

HB 289-LOCAL, authorizing annual school district meetings to be held at multiple locations. (Rep. Lamach, Merr 3)

97-0398

HB 307, relative to the adoption of local river corridor management plans by planning boards. (Rep. Metzger, Ches 13; Rep. L. Pratt, Coos 4; Rep. Schotanus, Sull 3)

97-0450

HB 309, increasing the time for a local legislative body to act on a proposed interim zoning regulation. (Rep. L. Foster, Hills 10)

97-0589

HB 315-LOCAL, expanding certain financial powers of village districts. (Rep. G. Chandler, Carr 1; Rep. Mock, Carr 3; Sen. Johnson, Dist 3)

97-0540

HB 338, repealing certain requirements relative to the duty to deliver a copy of process to prisoners. (Rep. Dokmo, Hills 14; Rep. Belvin, Hills 14; Rep. Holden, Hills 14)

97-0648

HB 348-FN, allowing the state fire marshal to investigate a building collapse or release of carbon monoxide. (Rep. Hunter, Hills 7)

97-0624

HB 390, relative to quarantine of captive wildlife. (Rep. Owen, Merr 6)

97-0770

HB 398, allowing Delta Dental Plan of New Hampshire to issue plans to individuals. (Rep. Hunt, Ches 10; Rep. Crosby, Merr 20; Rep. DeStefano, Merr 7; Rep. B. Gage, Rock 26; Sen. Gordon, Dist 2; Sen. J. King, Dist 18; Sen. Danaïs, Dist 20; Sen. Blaisdell, Dist 10; Sen. Fraser, Dist 4)

97-0840

HB 401, repealing the prospective repeal of the healthy kids corporation. (Rep. Wallner, Merr 24; Rep. Nordgren, Graf 10; Sen. Larsen, Dist 15)

97-0850

HB 403, prohibiting the use of trotlines to take fish (Rep. L'Heureux, Hills 18)

97-0345

HB 471, relative to the method of refund of the road toll paid by private school bus companies. (Rep. Mock, Carr 3; Rep. W. Williams, Graf 3; Rep. MacNeil, Graf 7; Sen. Gordon, Dist 2)

97-0897

HB 681, relative to penalties for certain violations of fish and game laws and granting rulemaking authority to the executive director relative to registration agent fees for wild turkey permits. (Rep. Felch, Rock 21)

97-0235

HB 183, relative to the state representative districts of towns. (Rep. Adams, Merr 9; Rep. Hall, Hills 20; Rep. Arnold, Hills 20; Rep. Flanagan, Rock 14)

97-0381

HB 249, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations. (Rep. Dolan, Rock 12; Rep. Stone, Rock 7)

97-0469

HB 252, relative to posting of bylaws in advance of any town election. (Rep. Holden, Hills 14 Rep. MacIntyre, Hills 18)

97-0359

HB 265, repealing certain rulemaking authority of the commissioner of transportation. (Rep. G. Chandler, Carr 1; Rep. E. Smith, Ches 6; Rep. Whittemore, Merr 13; Sen. F. King, Dist 1; Sen. Johnson, Dist. 3)

97-0565

HB 269, relative to the compensation of sweepstakes commissioners who are members of a multi-state lottery commission. (Rep. C. Brown, Graf)

97-0754

HB 300, establishing a commission to study judicial salaries and retirement benefits. (Rep. Kurk, Hills 5; Rep. Wheeler, Hills 7)

97-0561

HB 313, clarifying the authority of security officers on the New Hampshire hospital campus. (Rep. Calawa, Hills 17)

97-0644

HB 318, making technical changes to the provisions relating to school administrative units. (Rep. Thulander, Hills 6; Rep. Champagne, Ches 19; Sen. Rubens, Dist 5)

97-0343

HB 332, repealing the law which prohibits an entity which conducts horse or dog racing from employing a member of the general court. (Rep. McGuirk, Ches 1; Rep. Vogl, Ches 4)

97-0592

HB 343-LOCAL, relative to authority by governmental entities over driveways and other accesses to public ways. (Rep. Pfaff, Merr 11)

97-0595

HB 344-LOCAL, relative to planning board procedures on plats. (Rep. Patten, Carr 9; Rep. L. Foster, Hills 10; Rep. Metzger, Ches 13)

97-0375

HB 382, requiring vehicles transporting loads on ways where the speed limit is 30 miles per hour or greater to cover the load. (Rep. Packard, Rock 29; Rep. Letourneau, Rock 13; Sen. Rubens, Dist 5)

97-0449

HB 383, requiring the nomination and election of the secretary of state and treasurer to be without regard to party affiliation of the candidate. (Rep. A. Torr, Straf 12; Rep. Burling, Sull 1; Sen. J. King, Dist 18; Sen. Barnes, Dist 17)

97-0629

HB 391, making the office of emergency management the administrator of the grant program for the civil air patrol in New Hampshire. (Rep. Asselin, Hills 47;)

97-0649

HB 392, changing references to the "BOCA Basic Building Code" to "BOCA National Building Code." (Rep. Hunter, Hills 7)

97-0776

HB 425, relative to the regulation of pharmacists. (Rep. Dyer, Hills 8)

97-0878

HB 434, relative to milk products of sheep and goats and milk producer permits and allowing the commissioner of the department of health and human services to impose certain administrative fines. (Rep. Crosby, Merr 20)

97-0484

HB 437-FN-LOCAL, relative to certain health officers. (Rep. Haettenschwiller, Hills 29; Rep. Hill, Graf 1)

97-0300

HB 445, extending the reporting date of the paperless title system study committee. (Rep. Fesh, Rock 13; Rep. Bartlett, Belk 6; Rep. Packard, Rock 29; Rep. G. Katsakiores, Rock 13)

97-0426

HB 473, relative to the use of watercraft and boats on the waters of Chocorua Lake in the town of Tamworth. (Rep. Mock, Carr 3)

97-0467

HB 539-LOCAL, relative to the tax lien process for quarterly tax bills in the city of Concord. (Rep. Fraser, Merr 21; Rep. Dunn, Merr 24; Sen. Larsen, Dist 15)

97-0767

HCR 9, A RESOLUTION: urging the governor and general court to take action to bring about property tax relief. (Rep. French, Merr 3; Rep. Burnham, Ches 8; Rep. Ferguson, Hills 13; Rep. McCann, Straf 11; Sen. K. Wheeler, Dist 21; Sen. Whipple, Dist 8)

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the clerk, House Bills numbered 105 - HCR 9 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

97-0026

HB 105, allowing an extension of time limits upon a showing of good cause for holding an adjudicatory hearing in certain delinquency cases. (Rep. Hunter, Hills 7; Rep. Emerton, Hills 7; Rep. R. Wheeler, Hills 7; Sen. Danaïs, Dist 20; Judiciary)

97-0050

HB 114, requiring members of conservation commissions to be residents of the city or town which they represent. (Rep. Abbott, Rock 19; Rep. Rubin, Rock 25; Rep. Schanda, Rock 19; Rep. M. Fuller Clark, Rock 36; Sen. Whipple, Dist 8; Public Affairs)

97-0091

HB 129, relative to the definition of emergency services for health care insurance purposes. (Rep. Herman, Hills 13; Rep. M. Fuller Clark, Rock 36; Insurance)

97-0130

HB 142, relative to false residency forms and automobile insurance. (Rep. Hunt, Ches 10; Rep. R. Krueger, Sull 9; Insurance)

97-0192

HB 161, relative to pecuniary benefit transactions by charitable trusts. (Rep. Hunt, Ches 10; Rep. Lindblade, Sull 7; Rep. Syracuse, Rock 33; Rep. Allen, Hills 1; Rep. M. Fuller Clark, Rock 36; Sen. Rubens, Dist 5; Sen. J. King, Dist 18; Judiciary)

97-0207

HB 163, repealing the law which requires the commissioner of health and human services to deny the application or renewal of the license of an emergency medical technician convicted of driving while intoxicated. (Rep. Dolan, Rock 12; Rep. Dodge, Rock 4; Public Institutions, Health & Human Services)

97-0227

HB 165, establishing a committee to study withdrawal from cooperative school districts. (Rep. Thulander, Hills 6; Education)

97-0255

HB 188-FN, relative to the authority of the boxing and wrestling commission. (Rep. Beaulieu, Rock 10; Rep. Langer, Merr 11; Executive Departments and Administration)

97-0041

HB 110, relative to the use of and school district liability for the use of district computer systems and networks. (Rep. Thomas, Belk 3; Education)

97-0071

HB 123, relative to reduced speed limits in school zones during school openings and closings. (Rep. Beaulieu, Rock 10; Transportation)

97-0155

HB 154-LOCAL, defining "legal resident" for purposes of school attendance. (Rep. Spear, Straf 5; Rep. Champagne, Ches 19; Rep. Synder, Straf 14; Rep. Yeaton, Merr. 10; Rep. Thulander, Hills 6; Education)

97-0296

HB 194-FN, requiring any person erecting, installing, maintaining or exercising control over a mooring on Ossipee Lake to obtain a mooring permit from the division of safety services, department of safety. (Rep. Lyman, Carr 5; Transportation)

97-0078

HB 205-LOCAL, relative to special ballots for unorganized places. (Rep. P. Bradley, Coos 6; Rep. Davis, Coos 1; Public Affairs)

97-0244

HB 210, requiring that an applicant to a planning or zoning board wishing to subdivide property supply the names of holders of conservation, preservation, or agricultural preservation restrictions on the subdivision property, who will then be notified by the board. (Rep. Metzger, Ches 13; Rep. Hager, Merr 18; Executive Departments and Administration)

97-0331

HB 215, relative to taxation of discretionary easements. (Rep. Philbrick, Carr 4; Rep. Owen, Merr 6; Banks)

97-0419

HB 219-LOCAL, repealing provisions relative to literacy instruction and the committee to study literacy and remedial instruction. (Rep. Spear, Straf 5; Rep. Champagne, Ches 19; Rep. Snyder, Straf 14; Rep. Feng, Hills 23; Education)

97-0349

HB 226, relative to the composition of the aviation users advisory board. (Rep. Weyler, Rock 18; Rep. G. Katsakiores, Rock 13; Executive Departments and Administration)

97-0593

HB 230, establishing a committee to study the school building aid system. (Rep. Stone, Rock 7; Rep. Hawkinson, Coos 7; Rep. Lynch, Ches 19; Rep. Ferguson, Hills 13; Rep. Nichols, Merr 2; Sen. Barnes, Dist 17; Sen. J. King, Dist 18; Education)

97-0534

HB 267, prohibiting petroleum-powered motors on Little Dan Hole Pond in the town of Ossipee. (Rep. Lyman, Carr 5; Wildlife and Recreation)

97-0004

HB 285, relative to the official name of the "Old Man of the Mountain." (Rep. MacNeil, Graf 7; Rep. M. Fuller Clark, Rock 36; Rep. Phinney, Graf 8; Rep. LaMott, Graf 5; Rep. Hinman, Graf 7; Wildlife and Recreation)

97-0350

HB 296, relative to airways toll moneys and aircraft operating fee revenues. (Rep. Weyler, Rock 18; Rep. G. Katsakiores, Rock 13; Rep. Milligan, Hills 18; Transportation)

97-0752

HB 321, correcting a reference to the American Podiatry Association. (Rep. B. Gage, Rock 26; Executive Departments and Administration)

97-0812

HB 325, eliminating the correctional industries advisory board. (Rep. Knowles, Straf 11; Executive Departments and Administration)

97-0990

HB 331, adopting the uniform foreign depositions law. (Rep. DePecol, Ches 14; Judiciary)

97-0564

HB 341, relative to filing lucky 7 applications with the sweepstakes commission. (Rep. C. Brown, Graf 14; Ways and Means)

97-0665

HB 349, repealing certain pari-mutuel laws relative to racing funds, disbursements of the funds, and records of receipts. (Rep. C. Brown, Graf 14; Sen. Blaisdell, Dist 10; Ways and Means)

97-0764

HB 424, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. (Rep. MacGillivray, Hills 21; Rep. Kaen, Straf 7; Rep. J. Bradley, Carr 8; Environment)

97-0096

HB 130, clarifying the authority of county commissioners to arrange for work by prisoners. (Rep. Noyes, Rock 26; Rep. David Welch, Rock 18; Rep. J. Flanders, Rock 18; Public Institutions, Health and Human Services)

97-0444

HB 201-LOCAL, allowing municipalities to apply the amount of a property tax abatement refund to outstanding taxes owed by the taxpayer. (Rep. Noyes, Rock 26; Public Affairs)

97-0356

HB 216, relative to municipal budgets. (Rep. Brundige, Hills 18; Rep. Coes, Rock 19; Rep. L. Foster, Hills 10; Sen. Roberge, Dist 9 ; Banks)

97-0227

HB 227-LOCAL, relative to North Hampton property taxes. (Rep. Rubin, Rock 25; Public Affairs)

97-0455

HB 251-FN-LOCAL, reclassifying a portion of North Main Street in the town of Farmington and a portion of Passaconaway Road in the town of Albany. (Rep. Sullivan, Straf 3; Rep. G. Chandler, Carr 1; Rep. Spear, Straf 5; Rep. Tsiros, Straf 3; Sen. Fraser, Dist 4; Transportation)

97-0067

HB 120-FN, amending certain license fees and making various technical changes to the fish and game laws. (Rep. Abbott, Rock 19; Wildlife and Recreation)

97-0125

HB 140, relative to the sale of apples and relative to maple syrup and sap hydrometers and orders issued by the commissioner for noncompliance with the laws regulating maple and honey products. (Rep. Owen, Merr 6; Public Affairs)

97-0154

HB 149-FN, relative to the regulation of the profession of physical therapy. (Rep. Dodge, Rock 4; Executive Departments and Administration)

97-0178

HB 157, requiring persons marketing small consumer loans by offering inducement checks to print a disclosure on the inducement checks. (Rep. Melcher, Hills 11; Rep. Hunt, Ches 10; Banks)

97-0181

HB 158, creating a committee to study the establishment of a New Hampshire volunteer program. (Rep. Lovett, Graf 6; Rep. M. Fuller Clark, Rock 36; Public Affairs)

97-0269

HB 189, excluding rooms and rental units leased or subleased from charitable organizations under a transitional housing program from the definition of "tenancy" for the purposes of landlord/tenant laws. (Rep. Franks, Hills 26; Public Affairs)

97-0188

HB 208-LOCAL, relative to the status of roads laid out by the courts of common pleas or the county commissioners. (Rep. Thulander, Hills 6; Transportation)

97-0527

HB 222-LOCAL, relative to pooled risk management programs. (Rep. Jacobson, Merr 2; Insurance)

97-0437

HB 228, relative to the definition of "club-veterans" under the liquor laws. (Rep. Fenton, Hills 24; Rep. Hunter, Hills 7; Rep. Vincent, Straf 14; Rep. Rubin, Rock 25; Rep. Y. Coulombe, Coos 7; Ways and Means)

97-0727

HB 254, relative to shared tenant telecommunication services. (Rep. J. Bradley, Carr 8; Rep. Howard, Carr 10; Sen. Johnson, Dist 3; Economic Development)

97-0287

HB 262-FN-A-LOCAL, establishing a National Information Infrastructure oversight committee. (Rep. Durham, Hills 22; Rep. O'Hearn, Hills 26; Education)

97-0330

HB 264, relative to technical committees advising the director of the office of information technology management on technical issues. (Rep. S. Holley, Hills 28; Rep. LaMach, Merr 3; Rep. Hunt, Ches 10; Rep. Drabinowicz, Hills 36; Rep. Hansen, Hills 2; Sen. Larsen, Dist 15; Internal Affairs)

97-0481

HB 277, relative to the option to process absentee ballots before closing of polls. (Rep. McGovern, Rock 35; Public Affairs)

97-0076

HB 289-LOCAL, authorizing annual school district meetings to be held at multiple locations. (Rep. Lamach, Merr 3; Education)

97-0398

HB 307, relative to the adoption of local river corridor management plans by planning boards. (Rep. Metzger, Ches 13; Rep. L. Pratt, Coos 4; Rep. Schotanus, Sull 3; Environment)

97-0450

HB 309, increasing the time for a local legislative body to act on a proposed interim zoning regulation. (Rep. L. Foster, Hills 10; Public Affairs)

97-0589

HB 315-LOCAL, expanding certain financial powers of village districts. (Rep. G. Chandler, Carr 1; Rep. Mock, Carr 3; Sen. Johnson, Dist 3; Public Affairs)

97-0540

HB 338, repealing certain requirements relative to the duty to deliver a copy of process to prisoners. (Rep. Dokmo, Hills 14; Rep. Belvin, Hills 14; Rep. Holden, Hills 14; Judiciary)

97-0648

HB 348-FN, allowing the state fire marshal to investigate a building collapse or release of carbon monoxide. (Rep. Hunter, Hills 7; Environment)

97-0624

HB 390, relative to quarantine of captive wildlife. (Rep. Owen, Merr 6; Wildlife and Recreation)

97-0770

HB 398, allowing Delta Dental Plan of New Hampshire to issue plans to individuals. (Rep. Hunt, Ches 10; Rep. Crosby, Merr 20; Rep. DeStefano, Merr 7; Rep. B. Gage, Rock 26; Sen. Gordon, Dist 2; Sen. J. King, Dist 18; Sen. Danaïs, Dist 20; Sen. Blaisdell, Dist 10; Sen. Fraser, Dist 4; Insurance)

97-0840

HB 401, repealing the prospective repeal of the healthy kids corporation. (Rep. Wallner, Merr 24; Rep. Nordgren, Graf 10; Sen. Larsen, Dist 15; Public Institutions, Health and Human Services)

97-0850

HB 403, prohibiting the use of trotlines to take fish (Rep. L'Heureux, Hills 18; Wildlife and Recreation)

97-0345

HB 471, relative to the method of refund of the road toll paid by private school bus companies. (Rep. Mock, Carr 3; Rep. W. Williams, Graf 3; Rep. MacNeil, Graf 7; Sen. Gordon, Dist 2; Transportation)

97-0987

HB 681, relative to penalties for certain violations of fish and game laws and granting rulemaking authority to the executive director relative to registration agent fees for wild turkey permits. (Rep. Felch, Rock 21; Wildlife and Recreation)

97-0235

HB 183, relative to the state representative districts of towns. (Rep. Adams, Merr 9; Rep. Hall, Hills 20; Rep. Arnold, Hills 20; Rep. Flanagan, Rock 14; Internal Affairs)

97-0381

HB 249, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations. (Rep. Dolan, Rock 12; Rep. Stone, Rock 7; Public Affairs)

97-0469

HB 252, relative to posting of bylaws in advance of any town election. (Rep. Holden, Hills 14; Rep. MacIntyre, Hills 18; Internal Affairs)

97-0359

HB 265, repealing certain rulemaking authority of the commissioner of transportation. (Rep. G. Chandler, Carr 1; Rep. E. Smith, Ches 6; Rep. Whittemore, Merr 13; Sen. F. King, Dist 1; Sen. Johnson, Dist. 3; Transportation)

97-0565

HB 269, relative to the compensation of sweepstakes commissioners who are members of a multi-state lottery commission. (Rep. C. Brown, Graf 14; Executive Departments and Administration)

97-0754

HB 300, establishing a commission to study judicial salaries and retirement benefits. (Rep. Kurk, Hills 5; Rep. Wheeler, Hills 7; Executive Departments and Administration)

97-0561

HB 313, clarifying the authority of security officers on the New Hampshire hospital campus. (Rep. Calawa, Hills 17; Public Institutions, Health and Human Services)

97-0644

HB 318, making technical changes to the provisions relating to school administrative units. (Rep. Thulander, Hills 6; Rep. Champagne, Ches 19; Sen. Rubens, Dist 5; Education)

97-0343

HB 332, repealing the law which prohibits an entity which conducts horse or dog racing from employing a member of the general court. (Rep. McGuirk, Ches 1; Rep. Vogl, Ches 4; Internal Affairs)

97-0592

HB 343-LOCAL, relative to authority by governmental entities over driveways and other accesses to public ways. (Rep. Pfaff, Merr 11; Public Affairs)

97-0595

HB 344-LOCAL, relative to planning board procedures on plats. (Rep. Patten, Carr 9; Rep. L. Foster, Hills 10; Rep. Metzger, Ches 13; Public Affairs)

97-0375

HB 382, requiring vehicles transporting loads on ways where the speed limit is 30 miles per hour or greater to cover the load. (Rep. Packard, Rock 29; Rep. Letourneau, Rock 13; Sen. Rubens, Dist 5; Transportation)

97-0449

HB 383, requiring the nomination and election of the secretary of state and treasurer to be without regard to party affiliation of the candidate. (Rep. A. Torr, Straf 12; Rep. Burling, Sull 1; Sen. J. King, Dist 18; Sen. Barnes, Dist 17; Internal Affairs)

97-0629

HB 391, making the office of emergency management the administrator of the grant program for the civil air patrol in New Hampshire. (Rep. Asselin, Hills 47; Transportation)

97-0649

HB 392, changing references to the "BOCA Basic Building Code" to "BOCA National Building Code." (Rep. Hunter, Hills 7; Public Affairs)

97-0776

HB 425, relative to the regulation of pharmacists. (Rep. Dyer, Hills 8; Executive Departments and Administration)

97-0878

HB 434, relative to milk products of sheep and goats and milk producer permits and allowing the commissioner of the department of health and human services to impose certain administrative fines. (Rep. Crosby, Merr 20; Public Institutions, Health and Human Services)

97-0484

HB 437-FN-LOCAL, relative to certain health officers. (Rep. Haettenschwiller, Hills 29; Rep. Hill, Graf 1; Public Institutions, Health and Human Services)

97-0300

HB 445, extending the reporting date of the paperless title system study committee. (Rep. Fesh, Rock 13; Rep. Bartlett, Belk 6; Rep. Packard, Rock 29; Rep. G. Katsakiores, Rock 13; Transportation)

97-0426

HB 473, relative to the use of watercraft and boats on the waters of Chocorua Lake in the town of Tamworth. (Rep. Mock, Carr 3; Transportation)

97-0467

HB 539-LOCAL, relative to the tax lien process for quarterly tax bills in the city of Concord. (Rep. Fraser, Merr 21; Rep. Dunn, Merr 24; Sen. Larsen, Dist 15; Ways and Means)

97-0767

HCR 9, A RESOLUTION: urging the governor and general court to take action to bring about property tax relief. (Rep. French, Merr 3; Rep. Burnham, Ches 8; Rep. Ferguson, Hills 13; Rep. McCann, Straf 11; Sen. K. Wheeler, Dist 21; Sen. Whipple, Dist 8; Internal Affairs)

COMMITTEE REPORTS

SB 161-FN-A, relative to the Seacoast Science Center and making an appropriation therefor. Capital Budget Committee. Vote: 8-0. Ought to pass, Senator John King for the committee.

SENATOR J. KING: Senate Bill 161, an act relative to the Seacoast Science Center and making an appropriation therefor. This bill makes an appropriation for the Seacoast Science Center in the amount of seventy-three thousand dollars from the general fund to be used for designing an addition to that science center. The Seacoast Science Center is a fine example of a public private partnership. The center has been serving the state for the past 20 years and with continuous support from the Division of Parks and Recreation, the Audubon Society of New Hampshire and the Friends of Odiorne Point. For the past 15 years, the Sea Grant Extension through the New Hampshire University System. The Science Center offers several hundred programs, serves ten thousand school children and one hundred twenty-three thousand visitors in 1996. The center has been such a success that future program growth cannot be accommodated within the confines of the current facility. They have run out of room. By appropriating this money, we will allow the center the leverage needed to make fund raising possible. This is not going to pay for the whole thing, they are going to have to go out and do the same thing that they did originally. To date, for every dollar that the state has appropriated, the private sector has contributed two dollars since that began. This bill was voted ought to pass unanimously, by the Capital Budget Committee. The committee recommends SB 161 as ought to pass. Thank you.

Adopted.

Ordered to third reading.

SB 162-FN-A-L, relative to the acquisition of a certain piece of property in Piermont, New Hampshire and making an appropriation therefor. Economic Development Committee. Vote: 4-0. Ought to pass, Senator Johnson for the committee.

SENATOR JOHNSON: This bill makes a Capital Budget appropriation to the Department of Resources and Economic Development to purchase 41.9 acres between route 25C and Lake Tarleton in Piermont, New Hampshire. This particular parcel has fifteen thousand feet of road frontage making it extremely vulnerable to developers. U.S. Senator Judd Gregg has secured \$1.6 million in federal funds from the Land and Water Conservation Fund to purchase twelve hundred acres in the area near Lake Tarleton. This land, and hopefully, an additional twenty-two hundred acres, to be secured in the 1998 appropriations bill will be added to the White Mountain National Forest. On a state level, SB 162 will appropriate nine hundred and fifty-thousand dollars; eight hundred thousand dollars to purchase the 41.9 acres and approximately one hundred fifty thousand to develop the site. Senate Bill 162 secures for public use, 41.9 acres situated on which is a beach, a sizable parking area and a house to be used as a visitors, center, operating cost for which can be offset by a \$2.50 per person entrance fee. The land surrounding Lake Tarleton is pristine and vulnerable. Though development plans for this area have failed in the past, the state of New Hampshire must purchase the land now so as to not miss a rare opportunity to purchase, protect, and to make available to the public, such a vast expanse of pristine wilderness. Senate Bill 162 will promote tourism and economic development in the northern sphere of the state. The committee recommends that this bill ought to pass.

Adopted.

Referred to the Division on Finance (Rule #24).

SJR 3, urging the United States Congress to adopt a constitutional amendment for environmental rights. Environment Committee. Vote: 5-2. Ought to pass with amendment, Senator Russman for the committee.

1997-0382s

03/08

Amendment to SJR 3

Amend the resolution by replacing the second paragraph after the title with the following:

Whereas, the amendment states that "The natural resources of the nation are the heritage of present and future generations. The right of each natural person to clean and healthful air and water and to the protection of the other natural resources of the nation, shall not be infringed upon by any person"; and

SENATOR RUSSMAN: This SJR would seek over a long term, a constitutional amendment to guarantee clean and healthful air and water, and also the protection of the resources of the country. The committee recommended it ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senators Francoeur, F. King and D. Wheeler in opposition to SJR 3.

SB 144, establishing a committee to study certain issues regarding Silver Lake in the towns of Belmont and Tilton. Environment Committee. Vote: 7-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: Senate Bill 144 creates a committee to study issues relative to the management of water flow into Silver Lake in the towns of Belmont and Tilton. The Environment Committee unanimously recommends SB 144 as ought to pass. Thank you.

Adopted.

Ordered to third reading.

SB 100-FN, establishing a New Hampshire film and television commission. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass with amendment, Senator Larsen for the committee.

1997-0318s
01/02

Amendment to SB 100-FN

Amend RSA 12-A:36, II and III as inserted by section 2 of the bill by replacing them with the following:

II. The commission shall:

(a) Identify opportunities for activities related to the film and television industries.

(b) Recommend both long range and short-term programs that will result in economic gain for the state.

(c) Educate state, local, and private officials and organizations regarding the benefits and rewards that can result from increased development of this industry.

(d) Secure sites, as appropriate, within the state suitable for filming by the motion picture industry, the television industry, independent film producers, and other film makers.

III. The members of the commission shall be as follows:

(a) One member of the senate, or designee, appointed by the senate president.

(b) One member of the house of representatives, or designee, appointed by the speaker of the house.

(c) The commissioner of the department of resources and economic development, or designee.

(d) The commissioner of the department of cultural affairs, or designee.

(e) The commissioner of the department of safety, or designee.

(f) The commissioner of the department of transportation, or designee.

(g) The executive director of the department of fish and game, or designee.

(h) Four individuals representing the film and television industry, appointed by the governor.

(i) One individual representing the tourism industry, appointed by the governor.

(j) One member of the general public with an interest in the film industry, appointed by the governor.

Amend the bill by replacing section 3 with the following:

3 Report. The commission established under section 2 of this act shall file a report no later than November 1, 1998, with the governor, the president of the senate, the speaker of the house and the chairperson of the senate executive departments and administration committee. The report shall include the progress made, any problems encountered, future needs and goals, and suggestions for potential legislation.

4 Repeal. RSA 12-A:36 and 12-A:37, relative to the New Hampshire film and television commission, are repealed.

5 Effective Date.

I. Section 4 of this act shall take effect June 1, 2000.

The remainder of this act shall take effect 60 days after its passage.

SENATOR LARSEN: Encouraging the film industry both in the U.S. and in the foreign to come to New Hampshire is good, clean economic opportunity for our state. Because the industry will provide more jobs to the

people in the state and because the industry will promote tourism, SB 100 makes good economic sense. Members of the movie industry come and go from the state on an as needed basis and are not likely to establish permanent residency in New Hampshire; thus, the movie industry puts little or no demands on our services, yet they bring job opportunities and significant investment to our economy. The movie business needs a place to turn to, here in New Hampshire, that can tell them all that they need to know about potential filming sites. Senate Bill 100 establishes a film and television commission to provide a focus and contact point for a member of the film industry seeking to bring business to the state. The amendment to the bill provides for members of the film industry and television industry to be part of the commission. At the public hearing, we heard that there was a need for that. The amendment also provides for a sunset clause to sunset the commission effective June 1, 2000. In adding the sunset clause, many members of the committee felt that it was all right to review the commission and its effectiveness. Many of us felt that it would be valuable for the commission to continue on beyond that point, but that a review would be effective in seeing if we also needed added personnel as well. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 130, relative to the portability, availability, and renewability of health coverage. Insurance Committee. Vote: 6-2. Ought to pass with amendment, Senator Squires for the committee.

1997-0373s

08/01

Amendment to SB 130

Amend RSA 420-G:6 as inserted by section 1 of the bill by inserting after paragraph VII the following new paragraph:

VIII. A health carrier may, at the time of coverage renewal, modify the health coverage it offers to:

(a) Large employers; and to

(b) Small employers and individuals, provided that such modification is in accordance with state law and applied uniformly among all small employers and/or individuals with such health coverage.

Amend RSA 420-G:7, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Such preexisting condition exclusion period may only apply to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was received or recommended during the 3 months immediately preceding the effective date of the person's health coverage.

Amend RSA 420-G:11, I as inserted by section 1 of the bill by inserting after subparagraph (d) the following new subparagraph:

(e) The benefits and premiums available under all health insurance coverage for which the employer is qualified.

Amend the bill by replacing section 10 with the following:

10 Effective Date. This act shall take effect upon its passage or July 1, 1997, whichever is later.

SENATOR SQUIRES: Senate Bill 130 is a rewrite of RSA 420-G relative to small employer and individual insurance, also known as SB 711. The bill incorporates federal provisions occasioned by the recent passage

of the Kennedy Kassebaum law. Senate Bill 130 is not intended for a policy bill or an instrument to change SB 711 except in those instances where the federal government mandates without which New Hampshire could find itself subject to dual regulations by both the federal government and the insurance department. The department's rewrite of RSA 420-G maintains the spirit and intent of the original chapter making changes only where conflicts with Kennedy Kassebaum were found. The current RSA 420-G is limited in scope and it applies only small employers and individuals. Kennedy Kassebaum scope extends to all groups. Current state laws do not provide for any gap between periods of credible coverage. Kennedy Kassebaum allows gaps of up to 63 days. New Hampshire's passage of this law would minimize the potential for dual regulation and ensures our continued ability to define the most appropriate mechanism for New Hampshire's market.

SENATOR FRANCOEUR: Senator Squires, does SB 130 go beyond the requirement of Kennedy Kassebaum?

SENATOR SQUIRES: In certain instances, it does. I believe, however, that the issue here is to prevent a duality that is a major problem for an insurance department and for some insurance carriers.

Amendment adopted.

Ordered to third reading.

Senators Francoeur and D. Wheeler in opposition to SB 130.

SB 212-FN, declaring a member of the retirement system on leave under the Family and Medical Leave Act to be in service for purposes of death or disability benefits. Insurance Committee. Vote: 8-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill declares that persons on leave under the Federal Family and Medical Leave Act who are members of the retirement system, shall be considered in service for purposes of eligibility for death or disability benefits. Truly this is nothing but a technical correction bringing the New Hampshire retirement statutes into compliance with the federal law. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 197-FN, relative to final dispositional orders in child protection cases. Judiciary Committee. Vote: 7-0. Ought to pass, Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: This bill will enable the child care providers to have a hearing case tried in a court of law after an administrative hearing has found them guilty of child neglect. This only sounds fair, but it is not the way that the law works now. Currently, a child care provider is licensed by the Department of Health and Human Services. This same state agency investigates cases of the alleged child abuse and neglect. The same state agency also conducts the so-called "fair hearing" into the case and makes a determination of abuse or neglect. At no time can a licensed care provider have his or her case tried in a court room with an objective judge and a full due process of the law. This bill will allow this to happen. The Judiciary Committee has unanimously supported this bill, and I hope that you will recommend its passage. Thank you.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 37, relative to line items at town and school district meetings. Public Affairs Committee. Vote: 5-2. Ought to pass with amendment, Senator Whipple for the committee.

1997-0335s

08/02

Amendment to SB 37

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Restrictions on Appropriations. Amend RSA 32:10 by inserting after paragraph II the following new paragraph:

III.(a) Notwithstanding paragraph I, if the town or district meeting votes, pursuant to a properly petitioned warrant article, to prohibit any expenditure for a specifically-identified purpose, that purpose shall be deemed one for which no appropriation is made, and no amount shall be transferred to or expended for such purpose. If the town or district meeting votes, under a properly petitioned warrant article, to restrict transfers of a specifically-identified purpose or amount of appropriation, such a restriction shall be binding, even if the same or a similar purpose appears as part of the operating budget. In this paragraph the word "purpose" means the aim or objective specifically identified in such vote, whether or not such purpose corresponds to a particular line item in any proposed budget.

(b) Notwithstanding the time limits specified in RSA 39:3 and 197:6, a petitioned warrant article relating to a purpose of appropriation which has been disclosed or discussed at a budget hearing held under RSA 32:5, I may be submitted up to 5:00 p.m. on the day after the close of that budget hearing.

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows a town or district meeting, through a properly petitioned warrant article, to prohibit expenditures for specifically-identified purposes even if such expenditure appears as part of the operating budget.

SENATOR WHIPPLE: Senate Bill 37, relative to line items at town or district meetings. This bill and its amendment allow a town or district meeting, through a properly petitioned warrant article, to prohibit expenditures for specifically identified purposes even if such an expenditure appears as part of the operating budget. Under the amendment to paragraph three of RSA 32:10, once the voters put forth a warrant article petition, "No amount shall be transferred to or expended for such a purpose." Our voters are frustrated with the current local government process whereby they submit a petitioned warrant article which states "We do not want the town to spend X amount of dollars on a new cruiser." What happens is that the town, fully aware of the voters' warrant article, locates the money in another area of the budget to pay for the cruiser. Senate Bill 37 will only strengthen the voter's voice. The Public Affairs Committee recommends that this bill ought to pass as amended.

SENATOR MCCARLEY: I believe that we should consider very seriously looking at this amendment. The fact that we have across this state very dedicated and very hard working school boards. I believe that this amendment and the bill that it is amending, will actually get in the way of providing what I think is good policy and good direction by elected officials of this state. I would urge serious consideration of not supporting it. Thank you.

Amendment adopted.

Question is on ordering to third reading.

A division vote is requested.

Yeas: 14 - Nays: 9

Ordered to third reading.

SB 188-FN-L, relative to emergency hearings for review of arbitrary decisions by local officials on election day. Public Affairs Committee. Vote: 7-0. Inexpedient to legislate, Senator Rubens for the committee.

SENATOR RUBENS: Senate Bill 188-FN-L, relative to the emergency hearings for review of arbitrary decisions by local officials on election day. Forcing the superior court to be available on election day is a non-issue because members of the court are already available as needed. In addition, immediate hearings create due process infringements. If due process was provided for the SB 188, both sides must be permitted to be present and to submit evidence. If that were the case, the committee questioned, who would be monitoring the polls if the town moderator/supervisor of the checklist was required to be at an immediate hearing on election day. If SB 188 were amended to allow for telephone conferences with superior court judges on election day, then the same-day voter registration process could be potentially severely delayed as supervisors of the checklist would spend valuable time on the phone with judges rather than overseeing the voting process. Members of the committee wholeheartedly attempted to craft amendments to SB 188 during executive session but to no avail. As a result, the committee unanimously recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 61-FN-L, relative to the payment rate for medical transporters. Public Institutions, Health and Human Services Committee. Majority report: Vote: 5-3, Ought to pass, Senator Larsen for the committee. Minority report: Vote: 3-5, Inexpedient to legislate, Senator David Wheeler for the committee.

LAID ON THE TABLE

Senator D. Wheeler moved to have **SB 61-FN-L**, relative to the payment rate for medical transporters, laid on the table.

Adopted.

SB 61-FN-L is laid on the table.

SB 77-FN-A, relative to congregate housing and making an appropriation therefor. Public Institutions, Health and Human Services Committee. Vote: 6-2. Ought to pass, Senator McCarley for the committee.

SENATOR MCCARLEY: Senate Bill 77 provides funding for the continued support of congregate housing services. These are valuable services that allow New Hampshire's elderly and incapacitated adults to continue to live in a secure and independent environment with dignity. Congregate housing services are a proven, cost effective alternative to premature nursing home institutionalization. The state has already benefited from the current programs being run in Keene, Laconia, Manchester, Nashua and Somersworth. The four hundred thousand dollars being appropriated in this bill will be matched by federal funds. The Public Institutions, Health and Human Services Committee recommend this bill as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 141, establishing a committee to study the risks posed to children by the unsafe storage and use of firearms. Public Institutions, Health and Human Services Committee. Majority report: Vote: 4-3, Inexpedient to legislate, Senator D. Wheeler for the committee. Minority report: Vote: 3-4, Ought to pass, Senator K. Wheeler for the committee.

SENATOR D. WHEELER: The minority in the Senate Public Institutions, Health and Human Services Committee feels that this bill is completely unnecessary. I would also like to take this time to applaud both the gun owning community and the anti-gun owning community for working together in a new group called the "Firearms Safety Coalition," in their educational efforts in educating children about firearms and the safe handling of firearms. Also, the NRA has a curriculum for children called "Promote Gun Safety With Me," the Eddy Eagle Program, Stop! Don't Touch, leave the area and tell an adult. We feel that the gun owning community has been very responsible in educating children on the safe handling of firearms. We feel that there isn't a need to study this further. We applaud the efforts of the private sector in promoting responsible gun ownership and keeping children safe from firearms. We also have some concerns about the mechanics in the bill. Why the committee members would come from the Education Committee only, and why would we be studying only the concerns of the New Hampshire Medical Society that we were left totally undefined, yet in many medical journals, we know that there is a predetermined conclusion. So we would ask for your support for inexpedient to legislate on SB 141.

SENATOR K. WHEELER: Some of the things that Senator David Wheeler mentioned are not correct. The amendment cleared up the drafting of the bill that mentioned the members of the Education Committee. That was a drafting error. So that was never intended to have happened. That is not an issue. As far as the successful efforts of the private sector, I am going to give you a few statistics that indicate, to me, that so far, the problem is escalating rather than decreasing. I want to stress that we are talking about a study committee. This is no threat to anyone's second amendment right as was constantly reiterated in the hearing. The committee established in this bill is in no way designed to address the topic of firearm ownership. It is intended to assemble all parties interested in the issue of firearm safety and children to discuss the problem. In New Hampshire the rate of teen suicide by the use of firearms has increased alarmingly. From 1982 to 1986, 17 teenagers committed suicide by firearms as compared to 40 teenagers between 1987 and 1991. These statistics don't address the accidental injuries caused by firearms. The committee received a letter from Commissioner Terry Morton of the Health and Human Services Department and deputy commissioner of Health and Human Services, Kathy Sgambati, in which they stated that "We believe that SB 141, which will establish a study committee to examine the issue of firearm related injuries to children is one of the most critical issues of the session. It was designed to create a forum where legislators, concerned with the safety and well being of New Hampshire's children, can look for solutions to firearm related injuries. It is a discussion that is essential to the health of New Hampshire's youth. Childhood injuries and deaths related to firearms are on the increase and we believe that it is a public health issue that deserves your attention. Each year at least 12 children between 0-19 years of age die in New Hampshire due to gunshot wounds. This number increases every year." They go on to say, "Misuse of firearms is not always accidental or unintentional. In 1994 alone, there were six teen suicides commit-

ted by firearms in New Hampshire. Since the 1980's New Hampshire's suicide rate has risen 153 percent. Sixty-four percent of New Hampshire teen suicides are committed by firearms. This is four percent greater than the national average. The fatality rate of suicide attempts made with a handgun is 91 percent. In comparison, poison attempts are 23 percent and knife attempts are 4 percent. Access to firearms almost ensures that a suicide attempt will result in death. Unfortunately, it is the weapon of choice for male teens in New Hampshire. The teenage homicide rate in New Hampshire involving firearms has increased 437 percent over a five year period. This is 323 percent higher than the national increase. Eighty percent of teenage homicides are committed with firearms." In closing, they say, "it is our hope that you will join us in supporting SB 141. Your vote means only that you recognize the use of firearms by children and youth as a growing concern and acknowledge the need to study ways to safeguard our children's health. It is not a commitment to a specific solution or approach. Rather, it provides a means to bring public attention to an alarming trend and to work together to design a solution." I urge you to look favorably upon this study committee. Our children's health and safety are at stake in this area. You can help by voting for this study committee. Thank you.

SENATOR HOLLINGWORTH: Senator Wheeler, isn't it true that this was one of the departments under Terry Morton's number one piece of legislation?

SENATOR K. WHEELER: Yes, Senator Hollingworth, that is true. They have listed it among their top priorities as a health measure to protect children.

Senator McCarley moved to have **SB 141**, establishing a committee to study the risks posed to children by the unsafe storage and use of firearms, laid on the table.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Cohen.

Senator Cohen rescinds his seconding motion.

Senator Pignatelli withdrew her motion for a roll call.

Adopted.

LAI D ON THE TABLE

SB 141, establishing a committee to study the risks posed to children by the unsafe storage and use of firearms.

SB 201-FN-L, allowing welfare applicants to be checked through the National Crime Information Center and the in-state warrant system and requiring any person applying for an original New Hampshire driver's license to be checked through the National Crime Information Center for wanted persons and the National Law Enforcement Telecommunications Systems. Public Institutions, Health and Human Services Committee. Vote: 7-0. Inexpedient to legislate, Senator McCarley for the committee.

SENATOR MCCARLEY: Senate Bill 201, would allow any person applying for welfare to be checked through the National Crime Information Center and the in-state warrant system and requiring any person applying for an original New Hampshire's driver's license to be checked through the National Crime Information Center for wanted persons and the National Law Enforcement Telecommunications Systems. The appli-

cations shall be denied if the applicant is a wanted person. Further, any person who applies for an original New Hampshire driver license will be checked through the NCIC and the National Law Enforcement Telecommunications System before the license is issued. This bill could potentially deny people's welfare benefits who have not been convicted on any crime and are simply wanted for some unresolved matter, such as a parking ticket. The information that NCIC provides is simply data like names and dates of birth. If your name is on the list, you shall be denied benefits, regardless of the fact that your family may still be very much in need of these benefits. In addition, if the intention of this bill was to help locate wanted people, there is no reporting requirement, just a denial of eligibility. As for the record checks for new licenses, only a law enforcement officer may use the NCIC and inlet systems. Law enforcement officers are not necessarily present at the Department of Motor Vehicle offices around the state. The committee believes that fast advancing technology will eventually solve this problem. The Public Institutions, Health and Human Services Committee recommend inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 73-FN, providing that telephone and cable communications poles and lines be subject to the property tax. Ways and Means Committee. Vote: 5-1. Inexpedient to legislate, Senator Rubens for the committee.

Senator Rubens moved to recommit.

Adopted.

SB 73-FN is recommitted to the Ways and Means Committee.

SB 75-FN, regulating beer festivals and requiring beer festival promoters to obtain a single event license for a fee from the liquor commission to hold a beer festival. Ways and Means Committee. Vote: 6-0. Ought to pass with amendment, Senator Hollingworth for the committee.

1997-0438s

09/02

Amendment to SB 75-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Regulation and Licensing of Beer Festivals. Amend RSA 178 by inserting after section 31 the following new subdivision:

Regulation and Licensing of Beer Festivals

178:32 Beer Festival Licenses.

I. The commission may issue a supplemental beer festival license to the holder of a beverage manufacturers license, brew pub license, wholesale distributors license, beverage vendors or beverage vendor importers license, on-sale license or off-sale license. The commission may also issue a beer festival license to a responsible person representing a voluntary nonprofit group or such group's designee. Notwithstanding any other provisions of law, the holder of a license under this section shall be allowed to organize, advertise, and hold an event not exceeding 3 days in length, promoting the products of the beverage industry. The provisions of RSA 178:20, I, III and IV shall apply to any license issued under this section. The sales and services of alcoholic beverages shall be in a clearly defined area. Applications for a license under this section shall be filed with the commission 15 working days before the date on which the license is needed.

II. For purposes of regulation, any person issued a license under paragraph I shall be subject to all applicable statutory provisions and rules adopted under this title, except as directed by this section. Any violations committed by a supplemental licensee shall be considered violations against the applicant's annual or seasonal license.

III. No alcohol other than beverages and specialty beer shall be served under this license.

IV. Holders of a license issued under paragraph I may temporarily register beverages and specialty beer not currently registered for sale in New Hampshire. Registration shall be on forms provided by the commission. Registration forms shall be filed with the commission and an administration fee of \$10 per brand registered shall be assessed. Temporary registration of beverages and specialty beer shall not be allowed once a registration form is filed with the commission. Any temporary registration filed under this paragraph shall expire upon the termination of the event or shall not exceed 3 consecutive days, whichever is longer.

V. Beverages registered with the commission under paragraph IV shall be purchased by the holder of the license. Additionally, fees of \$.30 per gallon of beverages or specialty beer purchased under this paragraph shall be paid to the commission by the licensee within 10 business days of the expiration of the license. Payment shall be accompanied by any forms and documentation required by the commission.

VI. Beverages purchased under paragraph V which are partially consumed or not consumed shall be returned to the supplier for credit or shall be destroyed.

VII.(a) No license shall be issued under paragraph I unless the applicant obtains:

(1) Official approval of the chief of the local fire department as to the safety of the location; and

(2) Official approval of the local health department concerning sanitary conditions; and

(3) Official approval of the local police department as to the accessibility of the location.

(b) Written statements from such officials shall accompany the application for a license issued under paragraph I. The selectmen, city council, city manager or town administrator may at their discretion, assign police officers to the location of the event where alcoholic beverages are served.

VIII. Notwithstanding any other provision of law, the commission or its investigators may suspend, without warning, any license issued under paragraph I, if in their opinion, such continued sale or service of alcoholic beverages is contrary to the public interest.

2 Fees; Beer Festival Licenses. Amend RSA 178:27, I to read as follows:

I. On-sale licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				1,200
Alpine Slide				1,200
	45			1,200
Bed and Breakfast		480	840	
Beer Festival				
One-day	250			
Two-day	300			
Three-day	350			

Billiards/Pool Hall			1,200
Bowling Facility			1,200
Catering (all)			1,200
Catering (off-site only)			840
Catering (on-site only)			
18 events	5		
6 events	5		
52 events	5		
Club Military			100
Club Social			
9 events	250		
18 events	450		1,200
36 events	750		
52 events	1,200		
Club Veterans			
9 events	250		
18 events	450		840
36 events	750		
52 events	1,200		
College Club			1,200
Convention Center			2,400
Dining Car	480	840	
Fairs	112		
Golf Facility			1,200
Hotel		840	1,200
One Day License			100
Performing Arts			360
Racetrack/Motor Vehicle			1,800
Racetrack/Parimutuel			3,000
Racquet Sports			1,200
Rail Cars			1,200
Restaurant	480	840	1,200
Ski Facility			1,200
Special License		25	
Vessel	480	840	1,200

3 Effective Date. This act shall take effect July 1, 1997.

SENATOR HOLLINGWORTH: Senate Bill 75-FN, an act regulating beer festivals and requiring beer festival promoters to obtain a single event license for a fee from the Liquor Commission to hold a beer festival. Senate Bill 75-FN, would amend regulated beer festivals held in New Hampshire and it would require beer festival promoters to obtain a single event license from the Liquor Commission to hold a beer festival and to pay a fee to the Commission for this license. At the hearing, several brewers testified that this bill would aid them in promoting and executing a well-run beer festival, as well as opening the festival up to a wider range of craft brewers. Pubs that provide their own beer on premises and who are not regulated or sell to a wholesale distributor under current law are prohibited from attending and offering their product. The Liquor Commission supports this bill as amended. The amendment simply brings the language of the bill into compliance with current law. The commission has no way of predicting how many requests that it will receive for this license, but there is potential for revenue. This bill shall take effect on July 1, 1997. And no, it is not St. Patrick's day yet. The Ways and Means Committee recommend this bill as ought to pass with amendment.

SENATOR BARNES: Is one of these beer festivals scheduled for Raymond? It will make a difference on whether I vote for this or not.

SENATOR HOLLINGWORTH: I could not tell you that, Senator. I do know that there were several people who attended the hearing who are very interested in seeing this bill passed.

SENATOR BARNES: I think that we will let you sit down, Senator. We are not going to keep going with you.

SENATOR HOLLINGWORTH: I feel that I have already been to a few of them already.

Amendment adopted.

Ordered to third reading.

SB 80-FN-A, excluding certain transfers from payment of the real estate transfer tax. Ways and Means Committee. Vote: 6-0. Ought to pass with amendment, Senator Pignatelli for the committee.

1997-0329s

08/01

Amendment to SB 80-FN-A

Amend RSA 78-B:2, XVIII as inserted by section 1 of the bill by replacing it with the following:

XVIII. To a transfer of title from one or more individuals (the "transferors") to an entity (including without limitation a corporation, limited liability company, general or limited partnership, limited liability partnership) or trust (the "transferee"), where the transferors collectively own 100 percent of the ownership or beneficial interests in the transferee, provided, that if at any time within 5 years of the recording of the instrument of transfer the transferors or their heirs shall collectively own less than 50 percent of the ownership or beneficial interests in the transferee or any successor in interest of the transferee to which the property or any part of it may have been conveyed in a transaction exempt from transfer tax under this section, and the transferee or any such successor shall still own the property or any part of it, then the total tax that would have been imposed under this chapter on the original transfer, less the amount of any transfer tax paid on any subsequent transfers of any part of the property, shall become the joint and several personal obligation of all of the transferors (and the estate any deceased transferor and any heirs inheriting any interest in the transferee or any such successor) and the transferee and any such successor, regardless of what each of their ownership interests may have been in the property.

AMENDED ANALYSIS

This bill exempts from the real estate transfer tax transfers in which the beneficial owners of the transferor own 100 percent of the transferee immediately after the transfer and within 5 years after the recording of the transfer the transferor's interest in the transferee shall not be less than 50 percent of the ownership or beneficial interest and the transferee shall still own the property.

SENATOR PIGNATELLI: Mr. President and members of the Senate, SB 80-FN-A, this bill as originally drafted, created an exemption for the small business owner wishing to incorporate. Under current law, a person operating a sole proprietorship, with a 100 percent ownership, that decided to incorporate and transfer their assets, in particular real estate, to the new corporation, then would have to pay the New Hampshire Real

Estate Transfer Tax. Amendment 0329s addresses possible loopholes by requiring those small business owners applying for incorporation, own 100 percent of the corporation immediately after the transfer. It also provides for a five-year look back period after recording this transfer. At this time, the business owner's interest in the corporation must be at least 50 percent and they must still own the property. This bill met no opposition in the committee. The committee recommends this bill as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator D. Wheeler moved to have **SB 66**, allowing a state resident to obtain a license for a pistol or revolver for life, taken off the table.

Adopted.

SB 66, allowing a state resident to obtain a license for a pistol or revolver for life. Split Report: Majority report: Inexpedient to legislate, Senator Podles; Minority report: Ought to pass, Senator D. Wheeler.

SENATOR PODLES: Mr. President, I rise in opposition to SB 66. I will give you the reasons why. This bill went into effect in 1923, not this bill, but the fact that it went in for one year, then in 1958 and thereabouts, or in 1959, it went to two years, in 1993 it went to four years, and now the bill reads for "life." We had opposition from the Municipal Association and the reasons were that there was no opportunity for review. There would also be a potential liability for the cities and towns. It is a matter of fairness. We don't give lifetime licensing for hunting, driver licensing and this was also a unanimous opinion of the police, that we do not pass this bill. I called the Manchester Police Department because it is the largest one in New Hampshire. They have indicated that there is no opportunity for review if the bill is killed. What they do is to check on convicted felons, they check on past history assaults for domestic violence petition, and whether or not they are in fact a resident of a city or a town. It serves as a permanent record. It is a matter of fairness. I would like to read you the reasons that the Municipal Association opposed the bill. "What we have is a policy that calls for a clear definition of who a "suitable person" is for issuing a license. RSA 159:6 imposes upon local officials for a residence, and that is either the board of selectman or the mayor of the city or the chief of police. This statute requires that the person applying for the license, have a proper purpose of many of those reasons, but it also says that the person, the applicant, must be a "suitable person" and there is no definition of that in this statute. This is a concern. In fact, the licensing official can be found personally liable if they are found to be acting in bad faith, in the denial of a permit, and the local official must make a decision about who should be given a permit and who are to be denied a permit. There are no standards in the statute for saying who a "suitable person" is for the local officials. If they deny a permit, they might face personal liability for the cost. We are concerned that they might also be sued if they grant a permit to somebody who has gone out and hurt somebody. There is a precedent for that kind of thing. If they have been injured or kill somebody, this is a very litigious society that we live in. We are concerned about the possibility of that kind of liability. In four years we can take another look at this situation, but with a lifetime permit they don't have the opportunity for

that second look. I think that a shorter period might make it easier for them to issue a permit if it is of a questionable circumstance. Mr. President and members of the Senate, I think that if you don't believe the police, it is a unanimous decision of the police. I think that if you don't believe the police, I don't know whom you are going to believe.

SENATOR FRANCOEUR: Senator Podles, under the current statute, a police chief could review the permits in the drawer prior to the end of four years and revoke them for just cause. Is it not true that with this proposed bill they could also open up the drawer every four years, every year, every day if they so wished and revoke a license for just cause which is their review ability?

SENATOR PODLES: I am not sure, senator, that it says that. Would you just point that out to me? That has never come up in any of the testimony.

SENATOR FRANCOEUR: I was asking a question on just cause, senator.

SENATOR D. WHEELER: Senate Bill 66 makes one change to the current pistol permit law and that is to make the permit permanent. There are several things that have changed since this pistol permit was instituted back in the 20's, we now have the instant check system. So whenever a person buys or goes to buy a pistol, they are checked to see if they are a prohibited person because they have committed a crime; therefore, we don't feel that the review is needed every four years by the local police department. Further, the cost of these pistol permits, which is actually something gun owners tolerate, an inconvenience to their second amendment rights to own and carry without a permit, costs them almost three hundred dollars for a couple in their lifetime to keep going and applying for these permits, not counting their time. Furthermore, if there are instances of domestic violence and restraining orders, the court now has on the form, when they issue a restraining order, a box to check, if the court wants the person to surrender all firearms. So as far as domestic violence and restraining orders go, that is taken care of by the court. Furthermore, police still have the right, just like they do now, to revoke a permit for just cause. They also still have the right, like they do now, to open that file drawer and check on you at any time, for the rest of your life, that permit will be in their file drawer and they can pull that out and review you if they so chose. So it is not true that you have to go in every four year to be reviewed. I would also like to point out that our sister state of Vermont doesn't even have a pistol permit system. You can carry concealed in Vermont without a permit at all. To address some of the Municipal Association's alleged concerns, the fact of the matter is, that with this system, there would be less liability for the municipalities, not more. They would only be issuing a permit once, not 10, 12 or 14 times over a person's lifetime. Regarding the suitable person definition, there is a House Bill right now, that is in committee, I believe that they have an agreement on what a "suitable person" is in issuing a pistol permit. Taking out what some people believe is a little cloudiness of who can have one and who can't, I think that it is very clear, but this language... the bill in the House would define a "suitable person" and that issue is not a concern. I would also like to point out that although Senator Podles says that some police might oppose this, that none showed up at the hearing to tell us that. So we would urge your support for SB 66.

SENATOR PIGNATELLI: I sit on the Judiciary Committee that heard this bill. This is not a good bill to pass. We want to think very carefully before we think about passing this bill. For my speech, I would like to read part of, and to speak to part of, a citizen editorial in the Laconia Citizen on January 24, 1997. The title of the editorial is, "Life is too Long. A lifetime gun permit? Why not a life time driver's license? Gun permits are among the hundreds of bills that the legislature will consider this year. Drop this one in the circular file that sits beneath or next to most desks. New Hampshire gun owners who want to carry a concealed pistol or revolver must have a permit to do so and must apply for a renewal every four years. It is a law that has worked well and if there is any chiefs of police who object to the paper work that this entails, they haven't been vocal about it." Al Rubega said during the hearing, "There are better things for our police to do than every four years like clockwork, repeat a process which in the vast majority of cases, is unnecessary." Vast majority. Al Rubega is a Concord attorney and was an unsuccessful candidate for the republican nomination for governor last year. A vast majority of cases. That is the flaw in Rubega's lifetime permit cause and it jumps right out of his own statement. It is not the vast majority that we have to worry about in terms of handgun possession. It is the minority of freaks and nut cases that we have to worry about. What is wrong with going eyeball to eyeball every four years? We suspect that it will be a rare case that someone will be denied a permit to carry, but the fact is, that there are people who shouldn't be carrying fingernail clippers. We require the operators of automobiles to renew their licenses every four year. All that renewal involves is an eye test. We want to be sure that our state's drivers can still see. A trek to the local police station every four years is the least that we can expect of someone who wants to carry a concealed pistol or a revolver. It is an opportunity for someone to look into those eyes in an attempt to determine if there is anything behind them. Lifetime gun permits? The proposal deserves a short life, a very short life. With those remarks, I will close my speech. Thank you very much.

SENATOR SQUIRES: Mr. President and fellow senators, I cannot support this bill. I feel obligated to say why to my colleagues. In my district, I have half of Nashua, which is a metropolitan area and then I have Hollis, Mason, Brookline and Greenfield, which becomes progressively more rural. I have talked personally to the law enforcement officers in every one of those communities, not a single law enforcement officer thought that this was good public policy. Some of them said that if they knew a person that had been acquainted with them for years, lived in their town, that would be one thing. None of them said that it was appropriate in their judgment to issue a lifetime permit to someone that just moved into town that they had no knowledge of. For that reason, therefore, I intend to support the opinion of the law enforcement community. Thank you.

SENATOR COHEN: I find it hard to believe that this body could consider passing a lifetime permit for concealed weapons. It is incredible to me. Municipalities testified, despite what Senator David Wheeler said, they testified that this would increase their exposure. They could be sued if people are injured. The New Hampshire Supreme Court in 1996 said that "the reasonable regulation, the right to bear arms, does not violate the second amendment to the U. S. Constitution." Carrying a concealed weapon must be held to a higher standard than other weapons. Senator David Wheeler mentioned that municipal officials, law enforcement officials, can review a license for cause. Well, what is the trigger mecha-

nism? People's life situations change. People change over four years. Their mental and emotional stability changes over four years. Shouldn't municipal officials who are charged with protecting public safety have the right to, as Senator Pignatelli referred to, "go eyeball to eyeball" with the citizens of their town? Further, RSA 159 says "not less than four years," they can do it for longer than four years if they so choose. This is something that needs to be defeated. This would be very bad legislation for the safety of the people of New Hampshire. It does not infringe on the second amendment rights at all.

SENATOR LARSEN: Mr. President and members of the Senate, I like the idea of an eye test for pistol permits. We need that eye test. What other permits do we issue for life? We don't issue a driver's license for life? We don't issue a hunter and fishing license for life. Barbers and cosmetologists are wielding razor blades and we encourage them to come register on a regular basis. Pesticide applicators, health professionals of all sorts, engineers and plumbers renew their license. We even license dogs and cats regularly. What is this that this one group gets a lifetime license? It makes no sense. We need to look them over regularly and the four year renewal makes sense, this bill does not make sense.

SENATOR GORDON: I didn't intend to speak but I wish to with the indulgence of the Senate. I greatly appreciate the editorial in the Laconia Citizen because it happens to be the paper, that for the most part, covers the area that I represent, but I know that the editorial writer, for a fact, is not always right. He predicted that Ovide would be the next governor. I also know that he wasn't at the hearing and I was. I listened to the evidence that was presented and I was torn, but I had to make a decision on a particular bill based upon the evidence that was presented. There were, I think, as Senator Wheeler indicated, no police enforcement officials who came to testify, that in fact, that this was an important issue to them. They may feel strongly about it. The Municipal Association did testify and their testimony in essence says, as I think that Senator Podles indicated, was somewhat ambivalent. That was, yes, we would like to keep the registration every four years, but we really don't like doing it every four years because it subjects us to liability and it causes problems for us. I guess the question is, why are we registering it for four years or for a lifetime? There is a big difference between people who are wielding razor blades or driving cars every day, than someone who is carrying a pistol, because I don't think that we anticipate that a person will be using that pistol everyday or within the four years. There is a difference. Why are we asking them to register in the first place? We are asking them to register in the first place, not because of the use of the weapon, but so we can make a determination of character as to whether or not they should be entitled to have that right. Based on the testimony, I came away with some strong feelings, particularly in this mobile society. We should not be registering at the town level. We should have a centralized state registry, where you register once and then any community can have access to that information. I would like to move in the future, in that direction. I think that is what we ought to do. I don't think that this is the vehicle to do that. The question is why do we ask these people to register every four years? We ask them, basically, because it is for the convenience of the community. That makes the people come to the community so that the community can then make the decision. I don't think that is necessary. I think that we should be able... once a person is registered, we make a determination that they have the right

character to have that weapon, that then if we determine that if they don't have the proper character that we ought to be able to pull that license. That is why on the balance, although I see merits to the bill, but on the balance, I am going to vote inexpedient to legislate. I would ask my colleagues to do the same.

SENATOR Blaisdell: When I became sixty-seven a few days ago, I am entitled to a free fishing license and hunting license for the rest of my life, right?

SENATOR GORDON: If you say so, Senator Blaisdell.

SENATOR BLAISDELL: Does anybody check on that, whether or not when I get to be ninety in a few years, that I am still going to be carrying a rifle or a gun in my hand? Does anybody check on that?

SENATOR GORDON: I honestly do not know the answer to that, senator. I don't think that they do under the current law.

SENATOR BLAISDELL: Okay, that is one of the points.

SENATOR DANAIS: Senator Gordon, I am confused. Your testimony seemed to support this bill?

SENATOR GORDON: I support the lifetime bill, that is correct. Sorry, I did say inexpedient to legislate, didn't I? Sorry for the confusion. I am going to vote to support the bill for lifetime permits. I apologize for any confusion that I may have created.

Senator Barnes moved the question.

Adopted.

Question is on the minority report of ought to pass.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Whipple, Blaisdell, D. Wheeler, Francoeur, Barnes, Russman, Danais, Delahunty.

The following Senators voted No: McCarley, Roberge, Squires, Pignatelli, Larsen, Podles, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 14 - Nays: 10

Adopted.

Ordered to third reading.

ANNOUNCEMENTS RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that we be in recess for Enrolled Bill reports and amendments and House messages and introduction and referral of bills, and when we adjourn, we adjourn until Thursday, March 13, 1997 at 10:00 a.m.

Adopted.

NOTICE OF RECONSIDERATION

Senator Squires served notice of reconsideration on **SB 37**, relative to line items at town and school district meetings.

LATE SESSION**Third Reading and Final Passage**

SB 37, relative to line items at town and school district meetings.

SB 66, allowing a state resident to obtain a license for a pistol or revolver for life.

SB 75-FN, regulating beer festivals and requiring beer festival promoters to obtain a single event license for a fee from the liquor commission to hold a beer festival.

SB 80-FN-A, excluding certain transfers from payment of the real estate transfer tax.

SB 100-FN, establishing a New Hampshire film and television commission

SB 130, relative to the portability, availability, and renewability of health coverage.

SB 144, establishing a committee to study certain issues regarding Silver Lake in the towns of Belmont and Tilton.

SB 161-FN-A, relative to the Seacoast Science Center and making an appropriation therefor.

SB 212-FN, declaring a member of the retirement system on leave under the Family and Medical Leave Act to be in service for purposes of death or disability benefits.

SJR 3, urging the United States Congress to adopt a constitutional amendment for environmental rights.

Senator J. King moved that the Senate be in recess until Thursday, March 13, 1997 at 10:00 a.m.

Adopted.

In recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks concurrence of the Senate:

HB 678, relative to the expansion of veterans' home services. (Rep. David Welch, Rock 18; Rep. Drabinowicz, Hills 36; Rep. Vaughn, Rock 35; Rep. Mock, Carr 3; Sen. Fraser, Dist 4; Sen. Hollingworth, Dist 23; Sen. Gordon, Dist 2)

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 678 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 678, relative to the expansion of veterans' home services. (Rep. David Welch, Rock 18; Rep. Drabinowicz, Hills 36; Rep. Vaughn, Rock 35; Rep. Mock, Carr 3; Sen. Fraser, Dist 4; Sen. Hollingworth, Dist 23; Sen. Gordon, Dist 2; Insurance)

LATE SESSION

Senator Barnes moved that the business of the day being completed, that the Senate now adjourn until Thursday, March 13, 1997 at 10 a.m.

Adopted.

Adjournment.

March 13, 1997

The Senate met at 10:00 a.m.

A quorum was present.

GOVERNOR SHAHEEN: Boy, it is amazing how fast your prospective changes. You know, overnight, I have become a fiscal conservative and I am in favor of biennial sessions. Just kidding.... But thank you, it is nice to be back in the Senate. I wish that I was here more often. I said that one of the real problems with being governor, is that you never get to see anybody anymore. I don't get to wander the halls and talk to people like I used to. One of the things that the consultant told me when I started to run for Governor, is that when somebody gives you a hat, never put it on, because somebody might take your picture in it. Thank you all.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

The day after tomorrow is the Ides of March, the day on which Julius Caesar's political soul mate, Marcus Brutus, stabbed him in the back - literally. Ever since then the wise politician's motto has become the warning that Caesar had been given but ignored: "Beware of the Ides of March." Caesar's problem was that he quit listening and lost touch. Fancy titles and special license plates and nice offices and reporters and lobbyists who want to talk to you are not bad things, but beware, for they are things that can tempt you to quit listening and lose touch with things as they really are. If any of us do that, the Ides of March can be a very bad day.

Let me pray:

Walk ahead of us, O Lord, and beside and behind as well, that we may be protected by You from those whose daggers are sharp, and preserve each one of us from the disastrous temptation to use the abilities You have given to us as weapons that harm our opponents rather than as oars with which we can together propel this craft forward - today and even on the Ides of March and beyond. Amen.

Senator Whipple led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 25, establishing employer immunity from civil liability for good faith disclosure of information regarding current and former employees to prospective employers. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This bill establishes immunity from civil liability for employers who disclose information regarding current and former employees' job performances and work histories to prospective employers unless lack of good faith is shown. This bill encourages employers to share information regarding an employee's job performance in the interest of creating a quality workforce that will in turn provide quality to consumers. To avoid cost of litigation, many employers maintain a non disclosure policy whereby the only information passed as a reference check is a good employees name and title. Non disclosure policies are detrimental to good employees. Such policies have also led to situations whereby less desirable employees have penetrated the workforce, subjecting consumers, particularly children and the elderly, and other employees to potentially dangerous situations. Similar legislation has already passed in twenty-seven other states. The committee recommends that this bill ought to pass.

SENATOR LARSEN: I just wanted to point out that although the committee shows an eight to zero vote, many of us believe that it was important to change regulations and to allow for references of employees; however, there was a debate in committee, and I hope that this debate will continue as this goes through and over to the House. The debate centered around line 19 on the issue of clear and convincing evidence that would be required for an employee to prove bad faith by an employer. The issue was that clear and convincing evidence is a much tougher standard to prove that an employee has acted upon in bad faith. The committee received an amendment to allow for language that said a preponderance of evidence for employees to prove bad faith. This amendment did not pass, but I hope that the House considers it, and I hope that all of you remember that this was an issue, because I am concerned that we are going from side to side, in terms of giving the employers all of the difficulties in giving references and now we are going totally against employees in making their lives more difficult. I was hoping that we could take more of a halfway step, but we are talking a one giant step. I hope that as we work through this issue, this session, that we will perhaps see this bill back again. Thank you.

SENATOR RUBENS: Very briefly, serving on the Executive Departments and Administration Committee, the vast majority of states use the clear and convincing evidence sharing standard not the preponderance standard and the committee agreed with the legislatures in those overwhelming numbers of states with respect to evidentiary standard. Thank you.

SENATOR COHEN: As a cosponsor of SB 25, I would favor the amendment to change it to preponderance of evidence. I think that is something that needs to be done. I hope that when the House works on it and it comes back for a Committee of Conference, that the Senate appointees for that Committee of Conference could agree to the change of the language to make it less onerous for the employee to make a preponderance of evidence as opposed to require the higher standard of clear and convincing.

Adopted.

Ordered to third reading.

SB 40, relative to the payment of wages by employers. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass with amendment, Senator Larsen for the committee.

1997-0669s
10/09

Amendment to SB 40

Amend the introductory paragraph of RSA 275:43, I as inserted by section 1 of the bill by replacing it with the following:

I. Every employer shall pay all wages due to ~~[his]~~ employees within 8 days including Sunday after expiration of the week in which the work is performed, ***except when permitted to pay wages less frequently as authorized by the commissioner pursuant to paragraph II***, on regular paydays designated in advance by the employer[;]:

Amend the bill by replacing section 2 with the following:

2 Weekly Wages. Amend RSA 275:43, II to read as follows:

II. The commissioner may, upon written petition showing good and sufficient reason, permit payment of wages less frequently than ~~[that required by paragraph I]~~ ***weekly***, except that it shall be at least once each calendar month. In all instances, payment shall be made regularly on a predesignated date. The commissioner may prescribe the terms and conditions of such permission, and limit the duration thereof.

Amend the bill by replacing section 4 with the following:

4 Enforcement; 18-Month Limit for Filing Wage Claim. Amend RSA 275:51, V to read as follows:

V. If an employee elects to file a wage claim under this section, ***the wage claim must be filed with the department no later than 18 months from the date wages were due***. The commissioner shall notify the employer by serving upon ~~[him]~~ ***the employer*** a copy of such claim and an order to file with the commissioner within 10 days from the receipt of such notice any objections to such claim specifying the grounds therefor. Service may be by certified mail with return receipt. ~~[The employer may at the time of filing objections include a written request for a hearing specifying therein an address at which the employer may be notified of the time and place of hearing.]~~ If objection is not made within 10 days, the commissioner may order that payment be made in accordance with the claim. If requested, a hearing shall be afforded at which time any party may appear, with counsel if desired, and present evidence and cross-examine opposing witnesses. Any party, at ~~[his]~~ ***the party's*** own expense, may cause a record to be made of the hearing. A written decision shall be made within 30 days after the hearing stating the decision and specifying the facts and conclusions upon which the decision is based. If wages are found to be due, an order for payment shall issue. Any party aggrieved by ~~[said]~~ ***the*** decision may appeal to the superior court not later than 20 days from the date thereof by petition, setting forth that ~~[said]~~ ***the*** decision is erroneous, in whole or in part, and specifying the grounds upon which the ~~[same]~~ ***decision*** is claimed to be in error. Upon the filing of an appeal, the commissioner shall transfer to the court the record of the proceeding ~~[before him]~~ or a certified copy thereof. The scope of review by the superior court shall be limited to questions of law. After hearing and upon consideration of the record, the court may affirm, vacate or modify in whole or in part the decision of the commissioner, or may remand the ~~[same]~~ ***matter*** to the commissioner for further findings. In the absence of a seasonable appeal, ~~[said]~~ ***the*** decision and order shall be final, shall be entered upon the docket of the superior court at the request of the prevailing party, may be enforced as a judgment of ~~[said]~~ ***the*** court, and shall be a lien upon the property of ~~[said]~~ ***the*** employer situated in the state for a pe-

riod of 3 years from the time of [said] *the* decision. It is a requirement of this chapter for purposes of RSA 275:52 that a final order be immediately satisfied by the employer.

AMENDED ANALYSIS

This bill:

- (a) Clarifies the method of payment or deposit of wages;
 - (b) Prohibits any agreement for work to be paid less than minimum wage; and
- Requires wage claims to be filed with the department of labor within 18 months from the date wages were due.

SENATOR LARSEN: Senate Bill 40 was recommended by the Department of Labor. It clarifies the method of payment or deposit of wages. It prohibits an agreement for work to be paid less than minimum wage. It requires wage claims to be filed with the Department of Labor within 18 months from the date that wages were due. The time limit of 18 months within which to file a wage claim, we were told, provides ample time for employees to receive pay stubs and W-11 forms. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 69, relative to bargaining units of full-time firefighters. Executive Departments and Administration Committee. Vote: 8-0. Inexpedient to legislate, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This bill reduces from ten to five, the number of employees required to certify a bargaining unit of full-time firefighters. The firefighters and their representatives who testified at the hearing were to conduct amendment negotiations through the New Hampshire Municipal Association that never occurred. The bill's prime sponsor, Senator Hollingworth, has heard no word of compromise from either side. The Executive Departments and Administration Committee recommend this bill as inexpedient to legislate at this time.

Committee report of inexpedient to legislate is adopted.

SB 79, relative to unclaimed and abandoned property, the statute of limitations on claims under the consumer protection statutes, and liens on personal property. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass with amendment, Senator Rubens for the committee.

1997-0660s
01/09

Amendment to SB 79

Amend the title of the bill by replacing it with the following:

AN ACT prohibiting the sale of gift certificates containing an expiration date, relative to unclaimed and abandoned property, and relative to liens on personal property.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Expiration of Gift Certificates. Amend RSA 358-A:2 by inserting after paragraph XII the following new paragraph:

XIII. Selling gift certificates to purchasers which contain expiration dates. This paragraph shall not apply to gift certificates donated for charitable purposes.

2 New Chapter; Liens on Personal Property. Amend RSA by inserting after chapter 451-A the following:

CHAPTER 451-B

LIENS ON PERSONAL PROPERTY

451-B:1 Definitions. In this chapter:

I. "Personal property" means visible, movable, tangible goods, including goods that have been severed from real estate and moved for the purpose of being repaired. Personal property does not include real, intangible, or fixed property, fixtures, animals, inventory, or goods that are in the process of being made or manufactured.

II. "Repair" means to restore by replacing one or more parts or putting together what is torn or broken. It also means to fix, mend, or otherwise restore to a sound state.

451-B:2 Lien Upon Item for Work. Except to the extent otherwise provided by law, every person who shall repair, at the request of the owner, any article of personal property, the fair market value of which is not greater than the jurisdictional amount established for small claims actions by RSA 503:1, shall have a lien upon the property and may retain the possession of the article of property until the charges for such repair have been paid. Persons who repair articles of personal property may charge fair and reasonable storage fees for unclaimed or unpaid repair services, provided, however, that they shall provide clear and conspicuous notice of storage fees and notice that the owner of such personal property must disclose any prior lienholders having a security interest in such personal property at the time repairs are requested. The foregoing notice requirement may be satisfied either by sign or by express written notification at the time that a repair order is made.

451-B:3 Sale to Satisfy Debt. If a debt for repair services remains unpaid for 60 days from the date that they are completed, the holder of the lien established by the previous section may sell the article at public sale in accordance with RSA 444:3, RSA 444:5 and in the event a prior lienholder has been disclosed by the property owner, in accordance with the notice to lienholder provisions of RSA 444:4-a or RSA 450-A:4, as applicable, provided that the lienholder gives a 30-day written notice by certified mail, return receipt requested, to the owner of the article before such sale. The proceeds, after first paying the expense of sale, shall be applied in payment of the debt. After satisfying the requirements of RSA 444:5, the excess proceeds from such sale, if any, shall be paid over to the state treasurer in trust for the debtor.

3 Gift Certificates and Credit Memos. RSA 471-C:16 is repealed and reenacted to read as follows:

471-C:16 Gift Certificates and Credit Memos. Notwithstanding any law to the contrary, gift certificates and credit memos, regardless of when issued, shall not be property presumed abandoned and shall not be subject to RSA 471-C or any other past or present law providing for the custody or escheatment by the state of unclaimed and abandoned property.

4 Effective Date. This act shall take effect January 1, 1998

AMENDED ANALYSIS

This bill:

I. Allows any person who repairs personal property items to have a lien on the property until charges for the repair have been paid. In the event the repair is unpaid after 60 days the holder of the lien may sell the property at public sale.

II. Prohibits gift certificates sold to purchasers from containing expiration dates.

III. Provides that gift certificates and credit memos shall not escheat to the state.

SENATOR RUBENS: This bill grew from a constituent of mine who runs a shoe repair store and a client had their shoes repaired and the client never picked up the shoes, and the shoe repair never got paid, and there was no way for the shoe repairer to ever get paid. The bill allows any person who repairs personal property items to have a lien on the property until charges for the repair have been paid. In the event that the repair is unpaid after 60 days, the lienholder may sell the property at public auction, provided that the lienholder gives a 30 day written notice by certified mail, return requested to the owner of the article. The bill also prohibits gift certificates sold to purchasers from containing expiration dates. This applies for store credits also. The banning of expiration dates, does not apply, however, on gift certificates donated for charitable purposes. Senate Bill 79 also provides that gift certificates and credit memos shall not escheat to the state, which means that the state may not take the value of those gift certificates and store credits. The amendment to SB 79 allows the merchants to maintain the relationship with the customer. The committee recommends that this bill be ought to pass as amended. The committee report was unanimous.

Amendment adopted.

Ordered to third reading.

SB 83, relative to the bonding and operation of health clubs. Executive Departments and Administration Committee. Vote: 8-0. Rereferred to committee, Senator Patenaude for the committee.

SENATOR PATENAUDE: Because the health club owners and the attorney general's office need additional time to reach an agreement and in the interest to producing the best possible piece of legislation, the Executive Departments and Administration Committee recommend that this bill be rereferred.

Committee report of rereferred is adopted.

SB 99, requiring a determination of community benefits by the director of charitable trusts prior to certain mergers of nonprofit health maintenance organizations. Executive Departments and Administration Committee. Vote: 8-0. Rereferred to committee, Senator Podles for the committee.

SENATOR PODLES: Senate Bill 99 requires a determination of community benefits by the director of charitable trusts prior to certain mergers of nonprofit health maintenance organizations take place. However, because of the work group, including the New Hampshire Hospital Association, the Health and Human Services and the attorney general's Office need additional time to reach an agreement. In the interest of producing the best possible piece of legislation, the Executive Departments and Administration Committee recommends unanimously, that this bill be rereferred.

Committee report of rereferred is adopted.

SB 101, requiring certain hospitals to file certain forms with the director of charitable trusts. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill requires non profit hospitals to file certain forms with the director of charitable trusts. Currently, New Hampshire hospitals are exempt from filing disclosure forms regarding public assets, salaries etceteras. Senate Bill 101 provides the public, which bears the burden of absorbing residuals from tax incentives afforded to charitable trusts, with means to know. Many hospitals provide this information automatically. Senate Bill 101 would simply require disclosure. In the hearing, no one opposed the bill. As you may know, this bill is a small part of HB 409 requiring non profit, educational organizations and certain hospitals to file certain forms with the director of charitable trusts. House Bill 409 is coming through the House Commerce Committee and Executive Departments and Administration Committee. We hope that eventually, these two pieces of legislation can be merged at a later date. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

SB 106-FN, relative to licensure of oil and gas burner technicians. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-0658s

05/01

Amendment to SB 106

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study the regulation of gas burner technicians and oil burner technicians.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study the regulation of gas burner technicians and oil burner technicians.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the regulation of gas burner technicians and oil burner technicians. The study shall include, but not be limited to, the following:

I. Requiring that gas burner technicians and oil burner technicians be licensed in order to practice in this state.

II. The scope of practice for, and the definitions of, gas burner technicians and oil burner technicians.

III. Which administrative agency or board shall have authority and responsibilities relative to the regulation of gas burner technicians and oil burner technicians.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a committee to study the regulation of gas burner technicians and oil burner technicians.

SENATOR PATENAUE: The Senate Executive Departments and Administration Committee maintain that issues surrounding oil and gas burner technician licensure are worthy of study. This is a matter of public safety. The committee feels strongly that there exists much public interest in this matter. The committee recommends that this bill pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

SB 120, relative to the application form for a resident license for a pistol or revolver. Executive Departments and Administration Committee. Vote: 5-3. Inexpedient to legislate, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, SB 120 currently, three references are required to complete an application for a pistol or revolver license in the state of New Hampshire. Senate Bill 120 seeks to do away with the reference requirement. Distinguished members of the Senate, this is poor legislation. Now some of you may say, that a reference requirement is an infringement upon constitutional right to bear arms. A common battle cry. Some of you may also say that there are other means to conduct background checks; however, during the hearing of which only five members of the public testified, Hooksett police chief, James Oliver acknowledged that on at least one occasion, one friend or relative listed as a reference on the application form, actually discouraged chief Oliver from granting the applicant's pistol permit. Evidently, the applicant was under emotional distress and that friend or relative was concerned about the harm the applicant may have brought to him or herself and to others. Without that reference and without personal information, which may or may not, and often does not come up in a background check, chief Oliver may have gone ahead and issued the permit. Who knows what may have happened. During the session on March 6, this Senate voted to pass SB 66 that allows a state resident to obtain a license for a pistol or revolver for life. Whoever issues a permit that is licensing official, chief Oliver, for example, is liable for the permit issued. Why not afford the licensing entity the peace of mind, found in reference checking. I would like to make clear that the term "reference" or "references" is not an exclusive term. It could mean a local family member or friend or it could mean a friend in the next town, the next country, the next state. We must ask ourselves as licensing officials ask themselves, do we want to be issuing pistol and revolver licenses to individuals who have no one in the world to speak on their behalf? The police have voiced their adamant opposition to this bill. Chief Oliver testified that reference checks allow for more in depth look at the applicant. Three reference requirements are a small measure that can and does protect the citizens of our state. The majority of the Executive Departments and Administration Committee hope that you will join us in declaring this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 124, relative to the imposition of fines by the state board of licensure for land surveyors. Executive Departments and Administration Committee. Vote: 7-1. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: Senate Bill 125 allows licensed land surveyors and their agents to enter land after reasonable notice when doing so is reasonably necessary to perform a survey. This bill protects both the land owners and the surveyors. Land owners are protected because surveyors are liable for damages caused by the surveyor's entry. In addition, the land owners are held harmless from any legal claims arising from the surveyor's entry upon the land of others. The committee recommends this bill as ought to pass.

SENATOR JOHNSON: Senator Patenaude, are we talking about the right bill?

SENATOR PATENAUDE: No, we are not. I will read the correct report. Thank you, Senator Johnson. The correct report is SB 124. This bill gives the state board of licensure for land surveyors the authority to impose administrative fines up to three thousand dollars per violation or three hundred dollars per day for continuous violations, which ever is greater. Levying fines for ethical and procedural violations will serve as a deterrent and will assist those in the land surveying profession to perform to a higher standard. Fines are an appropriate means for immediate reprimand. As licensure revocations are often a delayed process and should be used only when extreme procedural or ethical violations have occurred. Other boards have authority to issue similarly substantial fines. Executive Departments and Administration Committee recommend this bill as ought to pass.

Adopted.

Ordered to third reading.

Senators Francoeur and D. Wheeler are in opposition to SB 124.

SB 125, relative to the right of entry upon lands for surveying. Executive Departments and Administration Committee. Vote: 7-1. Ought to pass with amendment, Senator Patenaude for the committee.

1997-0663s

09/02

Amendment to SB 125

Amend RSA 310-A:53-a as inserted by section 1 of the bill by replacing it with the following:

310-A:53-a Authority to Enter Upon Lands. Any person licensed under this subdivision as a land surveyor, and any person working under such licensee's direct supervision shall be authorized, after reasonable notice to the landowner or the landowner's agent, to go on, over, and upon the lands of others when it is reasonably necessary to make land surveys. No action for trespass shall lie against any surveyor licensed under this subdivision or person working under such licensee's direct supervision, who enters upon land other than the land being surveyed without causing damage to such other land in order to perform a survey. Nothing in this section shall relieve such licensed surveyor or person from liability for actual damages caused by such entry upon such other property. The landowner shall be held harmless from any legal claims arising from the surveyor's entry upon the lands of others.

AMENDED ANALYSIS

This bill allows licensed land surveyors and their agents to enter any land, after reasonable notice, when doing so is reasonably necessary to perform a survey. The bill immunizes licensees from certain actions in trespass unless they cause actual damage to the property.

SENATOR PATENAUE: I think that you just heard my convincing arguments for SB 125 just moments ago, so I will say that this bill was recommended as ought to pass by the committee.

Amendment adopted.

Ordered to third reading.

Senators Francoeur, Gordon and D. Wheeler are in opposition to SB 125. **SB 131**, allowing certain state employees to take paid leave to participate in disaster relief service work. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass with amendment, Senator Larsen for the committee.

1997-0665s

10/02

Amendment to SB 131-FN

Amend RSA 94:3-c as inserted by section 2 of the bill by inserting after paragraph III the following new paragraph:

Disaster relief services leave shall not be authorized by the employee's supervisor if the leave will require hiring a temporary employee or paying overtime wages.

SENATOR LARSEN: Senate Bill 131, allows a state employee who is a certified disaster relief service volunteer, to take paid leave for not more than 15 working days in a fiscal year to participate in specialized disaster relief service work. Under the provisions of SB 131 a request for service must be initiated by the American Red Cross and the leave must be authorized by the employee's supervisor. In addition, under the amendment of SB 131, disaster relief services leave shall not be authorized by the employee's supervisor if the leave will require hiring a temporary employee or paying overtime wages. Under this bill, the state could increase the number of trained disaster relief volunteers. Currently, the state only has 98 such volunteers. State employees involved in this process learn new management skills that will benefit not only themselves, but the agencies and the citizens that they serve. In addition, the Red Cross absorbs all fees associated with volunteer training and expenses. Not only is there a 15 day maximum for which state employees can take disaster relief leaves, but there are also specifications as to which disaster aids the employees can attend. Disaster services outside of the state of New Hampshire cannot occur under this bill unless the disasters are federally or presidentially declared as level three or above. It is in our best interest as a state to be prepared for natural disasters by preparing and training our own employees. I urge the full Senate to vote as the committee did, ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

SB 151, relative to final orders on appeals of decisions of zoning boards of adjustment. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass with amendment, Senator Podles for the committee.

1997-0667s
10/02

Amendment to SB 151

Amend the bill by replacing all after the enacting clause with the following:

1 Further Proceedings by Court in Appeal of Decision of Zoning Board of Adjustment. Amend RSA 677:11 to read as follows:

677:11 Judgment. The final judgment upon every appeal shall be a decree dismissing the appeal, or vacating the order or decision complained of in whole or in part, as the case may be; but, in case such order or decision is wholly or partly vacated, the court ***shall make a final order or decision on the matter. The court*** may [also], in its discretion, [~~remand the matter to the zoning board of adjustment or local legislative body for such further proceedings, not inconsistent with the decree, as justice may require~~] ***hold further proceedings as justice may require to permit the municipality and all affected parties the opportunity to present new testimony on the matter prior to reaching a final order or decision.***

2 Final Written Decision of Local Land Use Board. Amend RSA 676:3, I to read as follows:

I. The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. ***The board may include with its written decision any alternative reasoning upon which it wishes to rely in the event its primary reasoning is later overturned on appeal.***

3 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill requires the superior court in an appeal of a decision of a zoning board of adjustment to make a final decision on the matter and allows the court to hold further proceedings.

This bill also allows local land use board to include alternative reasoning with its final written decision for purposes of appellate review.

SENATOR PODLES: Senate Bill 151 requires the Superior Court in an appeal of a decision of a zoning board of adjustment to make a final decision on the matter and allows the court to hold further proceedings. Senate Bill 151 also allows local land use boards to include alternative reasoning with final written decisions for purposes of an appellate review. Under the current system, an individual can appeal a ZBA decision to the Superior Court, which in turn has the power to give the case back to the ZBA. The system is a cycle, one that has the potential for closure only after a lengthy and costly process. Though the appeal to the Superior Court is supposed to be expedited on the court's docket, the appeals process remains extremely slow and thus expensive for the appealee. There is also an amendment. The amendment allows local land use boards to include alternative reasoning with its final written decisions for purposes of an appellate review. The committee recommends unanimously, that the bill ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 170-FN, requiring licensure for out-of-state physicians using telemedicine to diagnose or assist in the treatment of patients in this state on a regular basis. Executive Departments and Administration Committee. Vote: 6-0. Inexpedient to legislate, Senator J. King for the committee.

SENATOR J. KING: Senate Bill 170 adds to the scope of persons practicing medicine. A physician who provides diagnostic or treatment services to any physician or patient in New Hampshire. The bill also adds to the Board of Medicine's rulemaking authority relative to such licensure; however, because during the hearing the Board of Registration Medicine went on record saying that they already do this type of licensing, the bill is no longer necessary. Therefore, the committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 179-FN-L, creating a New Hampshire local government records management improvement fund. Executive Departments and Administration Committee. Vote: 6-1. Ought to pass with amendment, Senator Whipple for the committee.

1997-0666s
05/01

Amendment to SB 179-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study creating a New Hampshire local government records management improvement fund.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study creating a New Hampshire local government records management improvement fund.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study creating a New Hampshire local government records management improvement fund. The study shall include, but not be limited to, the following:

I. Establishment of a New Hampshire local government records management improvement fund for development and ongoing maintenance of a full-time local government records management component within the state records management and archives program, and grants for local government records management improvement.

II. Use of such fund to support administrative and other costs associated with the provision of consultative and technical services including, but not limited to, educational programming, micrographics services, and ongoing storage and preservation of those local government records which have been transferred into the custody of the state archives.

III. Establishment of a surcharge for the recording, entering, indexing, or endorsing financing statements under the Uniform Commercial Code (RSA 382-A).

IV. Use of the proceeds from such surcharge on financing statements to provide revenue to the New Hampshire local government records management improvement fund.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the commit-

tee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a committee to study creating a New Hampshire local government records management improvement act.

SENATOR WHIPPLE: Senate Bill 179 was transformed into a study committee due to issues raised during a hearing and executive session. The bill as it was originally amended posed some serious questions about the deletion of UCC filings at the county level where real estate forms are currently filed. Also, there is a bill coming through the House, HB 580 that basically repeals the work accomplished in the original language in SB 179. There was also some thought in the executive session that if we are going to conduct a major overhaul of the UCC system, then perhaps we should look into centralizing UCC filings at the state level. Other members of the committee were also concerned about 28-A and a potential for unfunded mandates prescribed in SB 179. Due to enormous tasks undertaken in the original bill as originally amended, and the serious questions surrounding SB 179, the Executive Departments and Administration Committee moves to create a study committee. The committee recommends that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 191, relative to mental health providers. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-0683s

05/02

Amendment to SB 191

Amend RSA 330-A:4, I as inserted by section 7 of the bill by replacing it with the following:

I. The board shall have the authority to create advisory committees for each mental health discipline it licenses for the purpose of assisting the board in its responsibilities under RSA 330-A:10, II, and VI-XII. The board member of each mental health discipline shall serve as the chair of that advisory committee. The balance of the membership of each of the advisory committees shall be composed of members nominated by the New Hampshire Psychological Association, the New Hampshire Pastoral Psychotherapists Association, the New Hampshire Chapter of the National Association of Social Workers, the New Hampshire Association for Marriage and Family Therapists, and the New Hampshire Mental Health Counselors Association.

Amend RSA 330-A:10, XIX as inserted by section 7 of the bill by replacing it with the following:

XIX. Requirements to be met by licensees relative to the disclosure of information to patients and the general public concerning the nature of mental health care and the responsibilities of mental health practitioners to clients.

Amend RSA 330-A:14 as inserted by section 7 of the bill by replacing it with the following:

330-A:14 Information on Sexual Misconduct. The board shall inform all applicants for licensure under this chapter that the board deems sexual misconduct as provided in RSA 330-A:37 to be unethical, unprofessional, and dishonorable conduct subject to disciplinary action by the board. The board shall make available to all licensees and registrants, or persons applying for licensure, under this chapter information and materials, as determined by the board pursuant to RSA 541-A, regarding such sexual misconduct.

Amend RSA 330-A:15, I as inserted by section 7 of the bill by replacing it with the following:

I. All mental health practitioners licensed under RSA 330-A shall inform each client about his or her mental health rights. A copy of the patient's mental health rights shall also be posted in a prominent location in the office of the mental health practitioner. Reasonable accommodations shall be made for those clients who cannot read or have communication impairments and those who do not read or speak English. The board shall develop a model statement of the patient's mental health rights and distribute it to all practitioners licensed under this chapter. The model statement shall include, but not be limited to, the following:

(a) The name, title, business address, and telephone number of the practitioner.

(b) The degrees, training, experience, or other qualifications of the practitioner, followed by the following statement in bold print:

"The state of New Hampshire has not adopted uniform educational and training standards for all mental health practitioners. Practitioners licensed by the state meet the state's highest educational and training standards. This statement of credentials is for information purposes only."

(c) Notice that a client has the right to file a complaint and the procedure for filing complaints, including the name, address, and telephone number of the office of the board of mental health practice.

(d) Notice that the client has the right to reasonable notice of changes in services or charges.

(e) Notice that the client has the right to complete and current information concerning the practitioner's assessment and recommended course of treatment, including the expected duration of treatment.

(f) Notice that clients may expect courteous treatment and to be free from any influence, command, or pressure by the practitioner to do or perform any actions which might be harmful to the client.

(g) Notice that the client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or as otherwise provided by law.

(h) Notice that the client has a right to access to his or her records and written information from records in accordance with RSA 330-A:13.

(i) Notice that a client has the right to coordinated transfer when there will be a change in the provider of services.

(j) Notice that the client may refuse services or treatment, unless otherwise provided by law.

(k) Notice that the client may assert the client's rights without retaliation.

Amend RSA 330-A:21, I(c) as inserted by section 7 of the bill by replacing it with the following:

(c) Is supervised by a person licensed under this chapter who takes responsibility for the mental health candidate, subject to the requirements of this section.

Amend RSA 330-A:22 as inserted by section 7 of the bill by replacing it with the following:

330-A:22 Unlawful Practice; Penalty.

I. Except as provided in RSA 330-A:35, it shall be unlawful for any person to be engaged in mental health practice, unless that person is licensed by the board or registered with the state as an alternative provider. It shall be unlawful for any person to be engaged in mental health practice or refer to oneself as a psychologist, a pastoral psychotherapist, a clinical social worker, a mental health counselor, or a marriage and family therapist, or use the title "psychotherapist," unless that person is licensed by the board or working as a candidate under the direct supervision of a person licensed by the board. The license or the registration of such person shall be current and valid.

II. Except as otherwise provided in this chapter, any person who violates paragraph I of this section who violates any of the other provisions of this chapter relating to psychology, pastoral psychotherapy, clinical social work, clinical mental health counseling, or marriage and family therapy, or, having had his or her license suspended or revoked, shall continue to represent himself or herself as a licensed psychologist, pastoral psychotherapist, clinical social worker, mental health counselor, or marriage and family therapist shall be guilty of a class B misdemeanor, and each violation shall be deemed a separate offense.

Amend RSA 330-A:27, II(c) as inserted by section 7 of the bill by replacing it with the following:

(c) Any unprofessional conduct or dishonorable conduct, unworthy of and affecting the practice of the profession, including sexual misconduct as provided in RSA 330-A:37.

Amend RSA 330-A as inserted by section 7 of the bill by deleting RSA 330-A:35 and renumbering the original RSA 330-A:36-39 to read as RSA 330-A:35-38.

Amend RSA 330-A:35, IV as inserted by section 7 of the bill by replacing it with the following:

IV. The activities and services of any other person providing mental health services as an employee of or consultant to an institution, facility, or nonprofit institution or agency which provides clinical mental health services and which provides clinical supervision of its staff and which assumes professional, ethical, and legal responsibility for such mental health services.

Amend RSA 330-A:35 as inserted by section 7 of the bill by inserting after paragraph IV the following new paragraph:

V. The activities and services of psychiatrists, licensed under RSA 329, and advanced registered nurse practitioners, licensed under RSA 326-B:10.

Amend RSA 330-A:37 as inserted by section 7 of the bill by replacing it with the following:

330-A:37 Sexual Misconduct Subject to Disciplinary Action. Sexual relations with a client or a former client shall be considered sexual misconduct and shall be subject to disciplinary action under RSA 330-A and the duty to inform established in RSA 330-A:37.

330-A:38 Sexual Misconduct; Duty to Inform.

Amend RSA 330-A:38, I as inserted by section 7 of the bill to read as follows:

I. If, during the course of mental health therapy a client alleges that a person licensed under this chapter has engaged with the client in sexual misconduct as defined in RSA 330-A:37, the person licensed under this chapter shall have a duty to inform the client in the manner provided for in paragraph II.

AMENDED ANALYSIS

This bill recodifies the mental health practice act by:

- I. Creating a board of mental health practice.
- II. Redefining certain terms and combining other sections.
- III. Changing references from "certified" to "licensed."
- IV. Adding a requirement for candidates for licensure.
- V. Requiring mandatory licensing for certain mental health professionals and establishing licensing qualifications.
- VI. Revising related cross references.
- VII. Providing for disciplinary proceedings.

Makes any person, with certain exceptions, guilty of a class B misdemeanor for violations of the mental health practice laws.

Senator Francoeur moved to recommit.

Adopted.

SB 191, is recommitted to the Executive Departments and Administration Committee.

SB 1, relative to exclusive arrangements with managed care insurers. Insurance Committee. Vote: 6-2. Ought to pass with amendment, Senator Danaïs for the committee.

1997-0272s

09/01

Amendment to SB 1

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. In enacting 1996, 134:1, the legislature found that "competition among physicians and health care providers, facilities, payers and purchasers yields the best allocation of health care resources, the lowest prices, and the highest quality of health care." This act is intended to clarify the legislature's intention to prohibit certain contractual arrangements between managed care insurers and health care facilities.

2 Exclusive Arrangements; Health Care Facilities. Amend the introductory paragraph of RSA 420-I:1, II to read as follows:

II. "Exclusive arrangement" means any agreement, contract, combination or conspiracy, including, without limitation, acquisition, purchase, affiliation or consulting agreements with medical practitioners, **health care facilities**, or group practices and contracts of employment, between a managed care insurer and any person or persons which has the purposes or effect of:

3 New Section; Exclusive Arrangements Prohibited; Health Care Facilities. Amend RSA 151 by inserting after section 30 the following new section:

151:31 No facility licensed under this chapter shall require a managed care insurer to enter into an exclusive arrangement which requires that all standard medical treatment be provided at the particular facility.

4 Applicability. RSA 420-I:2 and RSA 420-I:5 shall apply to all exclusive arrangements prohibited by this act on and after the effective date of this act or June 30, 1997, whichever occurs later.

5 Effective Date. This act shall take effect 60 days after its passage.

SENATOR DANAIS: This bill extends the prohibition on exclusive arrangements with managed care insurers. Senate Bill 1 is intended to clarify the legislature's intent in enacting HB 1613 in 1996 that prohib-

ited and eliminated the exclusive contracts between health care insurers and health care providers. This bill adds the term "health care facilities" to the list of institutions restricted from engaging in exclusive contracts. This bill also prevents managed care insurers from entering into exclusive arrangements that will require all standard procedures to be performed at one site. The committee recommends that this bill be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senators Fraser and Podles are in opposition to SB 1.

SB 38, relative to certain activities under the workers' compensation law. Insurance Committee. Vote: 8-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-0613s

01/08

Amendment to SB 38

Amend the bill by replacing section 1 with the following:

1 Definition Amended. Amend RSA 281-A:2, XI to read as follows:

XI. "Injury" or "personal injury" as used in and covered by this chapter means accidental injury or death arising out of and in the course of employment, or any occupational disease or resulting death arising out of and in the course of employment, including disability due to radioactive properties or substances or exposure to ionizing radiation. "Injury" or "personal injury" shall not include diseases or death resulting from stress without physical manifestation. No compensation shall be allowed to an employee for injury proximately caused by the employee's willful intention to injure himself or injure another. Conditions of the aging process, including but not limited to heart and cardiovascular conditions, shall be compensable only if contributed to or aggravated or accelerated by the injury. *Notwithstanding any law to the contrary, "injury" or "personal injury" shall not mean accidental injury, disease, or death resulting from participation in athletic activities, unless the employee reasonably expected, based on the employer's instruction, or policy, that such participation was required for promotion, increased compensation, or continued employment.*

SENATOR FRANCOEUR: This bill amends the definition of injury under the workers' compensation law to clarify that injuries under workers' compensation do not include those as a result of participation in athletic activities unless the employee reasonably expected that participation was in some way required by the employer. This would protect the employer from responsibility for injuries when workers take a lunch break and shoot around the basketball and get hurt. The committee unanimously recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 178, regulating managed care systems of health care delivery. Insurance Committee. Vote: 8-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-0621s
08/01

Amendment to SB 178-FN

Amend RSA 420-J:5, V(b)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. The decision shall include the titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA 420-J:5, VIII.

Amend RSA 420-J:5 as inserted by section 1 of the bill by inserting after paragraph VII the following:

VIII. An external process at the department shall be available to ensure that the health carrier has provided to the covered person grievance procedures consistent with this section and any additional procedures of the health carrier described pursuant to RSA 420-J:5, II.

IX. The insurance commissioner shall issue a report to the governor and the legislature on or before November 1, of each year, relative to external appeals under paragraph VIII. The report shall provide detailed information regarding the number and status of grievance appeals filed with the department.

Amend RSA 420-J:7 as inserted by section 1 of the bill by replacing it with the following:

420-J:7 Network Adequacy.

I. A health carrier shall maintain a network that is sufficient in numbers, types, and geographic location of providers to ensure that all services to covered persons will be accessible without unreasonable delay.

II. The commissioner shall adopt rules under RSA 541-A for a health carrier's network adequacy. Such rules shall establish, but not be limited to:

(a) Waiting times for appointments for non-emergency care.

(b) Choice of and access to providers for specialty care, specifically addressing the needs of the chronically ill, mentally ill, developmentally disabled or those with a life threatening illness.

(c) Standards for geographic accessibility.

(d) Hours of operation for the carrier, including any entities performing prior approval or pre-authorization functions.

III. The health carrier shall keep, at its place of business, a detailed description of the health carrier's compliance with rules adopted pursuant to RSA 420-J:7, II as well as its procedures for monitoring network adequacy.

IV. Annually, the health carrier shall submit a report to the commissioner demonstrating compliance with the rules for network adequacy.

Amend RSA 420-J:9 as inserted by section 1 of the bill by replacing it with the following:

420-J:9 Quality Assessment, Quality Improvement, and Reporting.**I. A health carrier shall:**

(a) Establish and maintain a written quality assessment program designed to collect and evaluate information regarding the quality of the health care processes used by the health carrier and the health outcomes of its covered persons.

(b) A health carrier shall establish and maintain a written quality improvement program structured to identify opportunities to improve care, practices that result in improved health care outcomes, problematic utilization patterns, and those providers who may be responsible for either exemplary or problematic patterns of utilization.

II. The quality improvement program shall at a minimum include: a statement of the objectives of the program; a description of how the health carrier will conduct its quality improvement program; the lines of authority and accountability including data collection responsibilities; evaluation tools; performance improvement activities; and an annual effectiveness review.

III. The chief medical officer or clinical director of the health carrier shall have primary responsibility for the quality assessment and quality improvement activities carried out by, or on behalf of, the health carrier and for ensuring that all requirements of this chapter relative to quality assessment and quality improvement are met.

IV. A health carrier shall:

(a) Assure that participating providers have an opportunity to participate in developing, implementing, and evaluating the quality assessment and quality improvement programs.

(b) Maintain at its principal office a copy of the quality assessment program and the quality improvement program which shall be available for inspection by the commissioner or designee at any time during the health carrier's regular business hours.

(c) Certify to the commissioner on or before March 1 of each year that its quality assessment program and its quality improvement program meet the requirements of this chapter and any applicable rules.

(d) Notify the commissioner on or before March 1 of each year of its accreditation by any external accrediting agencies and shall provide a contact person and a phone number for consumer phone calls.

AMENDED ANALYSIS

This bill requires health carriers to:

1. Provide certain credentialing information about its health care professionals.

2. Establish written procedures for receiving and resolving grievances.

3. Establish written utilization review processes if they do not contract with a utilization review entity.

4. Provide an adequate network of providers.

Establish and maintain a written quality assessment and quality improvement program.

Senator Fraser moved to recommit.

Adopted.

SB 178, is recommitted to the Insurance Committee.

SB 190, exempting insurance companies newly located in New Hampshire from having to make payments to the administration fund during their first 3 years in the state. Insurance Committee. Vote: 8-0. Ought to pass with amendment, Senator Danais for the committee.

1997-0617s
08/09

Amendment to SB 190

Amend the title of the bill by replacing it with the following:

AN ACT exempting insurance companies newly located in New Hampshire from having to make payments to the administration fund during their first 3 years in the state and relative to investments by insurance companies in mutual funds.

Amend the bill by replacing all after section 1 of the bill with the following:

2 New Subparagraph; Adding Mutual Funds to Types of Investments Open to Certain Insurance Companies. Amend RSA 402:28, I by inserting after subparagraph (o) the following new subparagraph:

(p) Mutual Funds. Equity interest in an investment company registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) as amended.

3 New Subparagraph; Limitations on Investments in Mutual Funds. Amend RSA 402:29-d by inserting after paragraph IV the following new paragraph:

V. An insurer may invest in mutual funds in excess of the limits set forth in this section, provided the insurer shall not invest:

(a) More than 10 percent of its admitted assets in equity interests of a single mutual fund; or

(b) More than the greater of 25 percent of its admitted assets or 100 percent of its capital and surplus in equity interest held either directly by the insurer or indirectly through interests in mutual funds.

4 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill exempts insurance companies newly located in New Hampshire from having to make payments to the administration fund during their first 3 years in the state.

The bill also allows certain insurance companies to make limited investments in mutual funds.

SENATOR DANAIS: Senate Bill 190, this bill exempts insurance companies newly located in New Hampshire from paying into the Insurance Departments Administration Fund for three years. The purpose of this is provide an incentive for companies to locate and become domiciled in New Hampshire. The amendment allows insurance companies to make investments in mutual funds. The second part of the amendment limits the amount that those companies may invest in mutual funds. The committee unanimously recommends that this bill out to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 20, establishing a committee to study presumptive sentencing. Judiciary Committee. Vote: 6-1. Ought to pass with amendment, Senator Podles for the committee.

1997-0231s
09/08

Amendment to SB 20

Amend the bill by replacing sections 2 and 3 with the following:

2 Membership. The committee shall consist of the following members:

I. Three senate members, appointed by the president of the senate.

II. Three house members, appointed by the speaker of the house.

3 Mileage. Members of the committee shall receive mileage at the legislative rate when attending to their duties on the committee.

SENATOR PODLES: Senate Bill 20 establishes a committee to study presumptive sentencing. Presumptive sentencing sets up guidelines and standards for sentencing certain crimes. The intentions are to prevent unrestrained plea bargaining from resulting in weak sentences for some criminals and harsh sentences for others. A judge still has the leeway to adjust sentences to the particular circumstances, but they must give written reason when doing so. The idea is to establish fairness and continuity in sentencing. Currently, many criminals are not afraid to face the courts because they know that they can plea bargain down to minimal sentences. Presumptive sentencing would reduce the variations in sentencing that criminals often take advantage of and thus lend more weight and credibility to our criminal justice system out on the streets where it counts. The amendment includes three state senators appointed by the Senate president for the committee and also three House members appointed by the speaker of the House. The Judiciary Committee recommends that this bill ought to pass with amendment.

SENATOR F. KING: Senator Podles, does the testimony that you heard relative to this bill lead us to believe that the sentences that are being given are, perhaps, too short a duration of time at the present time? Is that the testimony?

SENATOR PODLES: They are. They are not the same from county to county.

SENATOR F. KING: Can we conclude from that, that as a result of the work from this committee that we will see more and longer periods of incarceration in the state?

SENATOR PODLES: I am not sure about that, but we are going to study this.

SENATOR F. KING: Thank you, Senator.

Amendment adopted.

Ordered to third reading.

SB 81, relative to the administration of estates. Judiciary Committee. Vote: 8-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0075s
01/09

Amendment to SB 81

Amend the bill by replacing section 1 and 2 with the following:

1 Waiver of Administration. Amend RSA 554:1-a to read as follows:

554:1-a Waiver of Administration. Notwithstanding any provision of law, whenever a deceased dies testate and the surviving spouse *or, if no spouse, an only child* is named in the will as the sole beneficiary of

the deceased's estate and has also been ~~[nominated and]~~ appointed to serve as executor **or administrator with will annexed, hereafter administrator w.w.a.**, there shall be no requirement for an inventory of the estate, no requirement for a bond, and no requirement for an accounting for assets; provided, however, that **within 30 days after the grant of administration, the executor or administrator w.w.a. shall file an affidavit of real property passing under the will, including the address, book and page, or the decedent's source of title in the property.** Any interested ~~[creditor]~~ **person** may petition for a full administration of the estate within 6 months after the original grant of administration, and such petition may be granted by the probate court for good cause shown. Administration of the will shall be completed upon the filing of an affidavit **of administration** with the court, such filing to occur not less than 6 months nor more than one year ~~[from]~~ **after** the date of appointment of the executor **or administrator w.w.a.**, stating that to the best of the knowledge and belief of the executor **or administrator w.w.a.** there are no outstanding debts or obligations attributable to the deceased's estate. If the executor **or administrator w.w.a.** fails to file ~~[the]~~ **either** affidavit within 30 days after the required filing date, the executor **or administrator w.w.a.** is in default. The register of probate shall give notice of the default to the executor **or administrator w.w.a.** by first class mail within 10 days after the default. The register of probate shall issue a citation notice in accordance with RSA 548:5-a. **If the executor or administrator w.w.a. is unable to complete the administration of the estate, administration may be completed pursuant to RSA 553:7.**

2 De Bonis Non. Amend RSA 553:7 to read as follows:

553:7 De Bonis Non.

I. If the administration on an estate becomes vacant by death, extinguishment, or revocation the ~~[judge]~~ **probate court** may grant administration on the estate not before administered to such person as ~~[he]~~ **the probate judge** may think proper, having due regard to the rule prescribed in RSA 553:2.

II. **If the administration on an estate under RSA 554:1-a becomes vacant by death, extinguishment, or revocation, the probate court may, in its discretion, require any administrator de bonis non to furnish an inventory of the estate, bond, or an accounting for assets before the completion of the administration.**

SENATOR GORDON: Senate Bill 81 simply expands on legislation that passed four years ago, relative to the administration of the estate. That bill allowed a sole surviving spouse who is named as the executor of the will to have an expedited process in the administration of an estate. Senate Bill 81 extends this process to cases where there is an only child who is named executor of the will. The bill also allows if someone else is named as executor of the will, they could resign and allow the spouse or only child to be appointed as the executor so that they might take advantage of the expedited process. This bill would make the probate process faster and easier. The Judiciary Committee voted unanimously ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 82, relative to determination of reasonable compensation for certain trustees. Judiciary Committee. Vote: 6-2. Ought to pass with amendment, Senator Gordon for the committee.

1997-0240s
01/09

Amendment to SB 82

Amend the bill by replacing all after the enacting clause with the following:

1 Compensation. RSA 564:21 is repealed and reenacted to read as follows:

564:21 Compensation for trustees of Non-Charitable Trusts.

I. A trustee of a non-charitable trust shall be allowed reasonable expenses incurred in the execution of *the* trust; and unless otherwise expressly provided in the trust instrument, *such trustee* shall have such reasonable compensation for services as the judge may allow.

II. *In the case of any corporate or professional trustee of a non-charitable trust, the probate court recognizes a rebuttable presumption that reasonable compensation for the trustee's services shall be defined by that institution's or professional's published inter vivos fee schedule or fee agreement, in effect at the time services are rendered. Corporate or professional trustees shall submit an affidavit to the probate court reciting their inter vivos fee schedule or fee agreement, in effect at the time services were rendered; a statement that the charges for the services rendered in this account are in accordance with the charges in that fee schedule or fee agreement; and a certification that the beneficiaries were notified of that fee schedule or fee agreement. Preparation of any trustee account or appearance at probate court, by a corporate or professional trustee, if required, shall not ordinarily be an additional charge.*

III. Unless otherwise expressly provided in the trust instrument, such compensation and expenses *shall* be apportioned between principal and income as the *trustee* shall determine, *subject to review by the probate court.*

2 New Section; Compensation for Trustees of Charitable Trusts. Amend RSA 564 by inserting after section 21 the following new section:

564:21-a Compensation for Trustees of Charitable Trusts. A trustee of a charitable trust shall be allowed reasonable expenses incurred in the execution of the trust; and unless otherwise expressly provided in the trust instrument, the trustee shall have such reasonable compensation for services as the judge may allow. Unless otherwise expressly provided in the trust instrument, such compensation and expenses may be apportioned between principal and income as the judge may determine equitable and the compensation shall be payable out of income only, unless otherwise provided in the trust instrument or where the judge determines that certain unusual and non-recurring services and expenses such as the distribution of principal are involved that should be charged to the corpus.

3 Committee Established. There is established a committee to study reasonable compensation of trustees of charitable trusts.

4 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, at least one of whom shall be a member of the senate judiciary committee, appointed by the president of the senate.

(b) Three members of the house of representatives, at least one of whom shall be from the house judiciary and family law committee, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

5 Duties. The committee shall study:

I. Reasonable compensation for trustees of charitable trusts.

II. The standard to be applied by the probate court in deciding upon petitions to change corporate trustees in testamentary trusts.

III. Any other matter determined relevant by the committee.

6 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

8 Effective Date.

I. Sections 3-7 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill clarifies the determination of reasonable compensation for trustees of non-charitable trusts. The bill also establishes a committee to study the issue of compensation for trustees of charitable trusts.

SENATOR GORDON: This bill allows for reasonable compensation for trustees in testamentary trusts. This particular bill provides that there is a presumption that the established rate schedule for inter vivos trusts, a trust created while people are alive is the presumptive rate for the testamentary trusts. It also creates a study committee to study the matter of charitable trusts and how trustees should be compensated for charitable trusts. A study also to study the issue of transferring trusts from one corporate trustee to another and establishing a standard for that purpose.

Senator Podles moved to recommit.

Adopted.

SB 82, is recommitted to the Judiciary Committee.

SB 84, revising the uniform simultaneous death act. Judiciary Committee. Vote: 8-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-0072s

09/01

Amendment to SB 84

Amend RSA 563:3 as inserted by section 1 of the bill by replacing it with the following:

563:3 Requirement of Survival by 120 Hours Under Governing Instruments. Except as provided in RSA 563:6, for purposes of a provision of a governing instrument that relates to an individual surviving an event, including the death of another individual, an individual who is not established, by clear and convincing evidence, to have survived the event by 120 hours is deemed to have predeceased the event.

SENATOR FRANCOEUR: Senate Bill 84 amends the simultaneous death act. This law applies when two individuals such as a husband and

wife die in a common accident. New Hampshire passed the original law in 1941. It has not been amended since that time. There are many tax implications of the timing of the death of an individual. This bill imposes a requirement of survival by one hundred and twenty hours. An individual who is not established by clear and convincing evidence to have survived the other individual by a hundred and twenty hours is deemed to have predeceased the other individual. The bill also specifies the evidence necessary to establish death. The bill also protects payer and other third parties who make payments in reliance on this law. This bill was intended to make New Hampshire's law comply with the Uniform Simultaneous Death Act. The committee recommends ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 85, making technical changes in laws relative to the probate courts. Judiciary Committee. Vote: 8-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0655s

09/01

Amendment to SB 85

Amend the bill by replacing all after section 9 with the following:

10 Cases Requiring No Notice. Amend the introductory paragraph of RSA 550:4 to read as follows:

The [judge] *probate court* may, at [his] *the discretion of the judge*, proceed without notice in the following cases:

11 Cases Requiring No Notice. Amend RSA 550:4, XI to read as follows:

XI. In changing the names of persons *who reside in the county and who apply therefor*.

12 Repeal. RSA 548:13, relative to return of names changed, is repealed

13 Effective Date. This act shall take effect January 1, 1998.

SENATOR GORDON: This bill does make technical changes in laws relative to the probate courts. Historically, the probate courts are located in each county and there is a judge appointed for each county. Currently, the law references the judge instead of the place that the court is located. Because we now have full time judges in some of the probate courts that are serving in more than one county, the law has become archaic and some times non applicable. This would correct that. There is references specifically to the place that the court is located instead of to the judge, him or herself.

Amendment adopted.

Ordered to third reading.

SB 96, relative to the priority of charges in probate of estates. Judiciary Committee. Vote: 7-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0656s

09/02

Amendment to SB 96

Amend RSA 554:19 as inserted by section 1 of the bill by replacing it with the following:

554:19 Priority of Charges. The estate of every person deceased shall be chargeable with the following. To the extent that funds are available, these charges shall be paid in the following priority:

I. The just expenses of the administration of the estate.

II. The necessary expenses of the funeral and burial of the deceased.

III. A reasonable allowance to the surviving spouse, as by law provided.

IV. The just debts owed by the deceased, including the necessary expenses for the last illness of the deceased.

V. The support and maintenance of minor children of the deceased until they reach 18 years of age.

VI. The total amount paid for old age assistance or aid to the permanently and totally disabled and, under certain circumstances, charges pursuant to RSA 166:19.

The legacies given by the will of the deceased.

SENATOR GORDON: Senate Bill 96 makes changes in the priority of charges assessed by the probate courts against the estates of deceased persons. The bill is an update to existing law that determines who gets paid and in what order that they get paid, in cases where an estate leaves an adequate fund. The current laws that deal with this subject are outdated and this legislation is consistent with those old laws, but the changes in the bill make the law more current. It becomes a uniform statute that can be followed by the court. The amendment to the bill places just debts, fourth, in the list of priorities. This allows general creditors to have priority before the state. The Judiciary Committee voted unanimously that the legislation ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 119, prohibiting a person convicted of any sexual offense, felony, or DWI offense from obtaining a waiver to remove the person's driver's license image from department of safety records. Judiciary Committee. Vote: 7-0. Ought to pass with amendment, Senator Podles for the committee.

1997-0553s

03/09

Amendment to SB 119

Amend RSA 260:14, VIII-a as inserted by section 1 of the bill by replacing it with the following:

VIII-a.(a) No person who has been convicted of any offense enumerated in RSA 632-a, RSA 645, or RSA 649-A, or a reasonably equivalent offense under the law of another state or the federal government, shall be entitled to apply for or to receive a waiver from the department of safety relative to retention of the person's driver's license image, likeness, or photograph. Such image, likeness, or photograph shall be retained in the records of the department of safety.

(b) No person who has been convicted of DWI, aggravated DWI, or a reasonably equivalent offense under the laws of another state, shall be entitled to apply for or to receive a waiver from the department of safety relative to retention of the person's driver's license image, likeness, or photograph until at least 7 years after the date of the conviction. Such image, likeness, or photograph shall be retained in the records of the department of safety.

No person who has been convicted of a felony in this state or in any other jurisdiction shall be entitled to apply for or to receive a waiver from the department of safety relative to retention of the person's driver's license

image, likeness, or photograph until at least 10 years after the date of conviction. Such image, likeness, or photograph shall be retained in the records of the department of safety.

SENATOR PODLES: Senate Bill 119 would prohibit a person convicted of any sexual offense, felony or DWI offense from obtaining a waiver to remove that person's driver license image from the Department of Safety's records. Currently, any person may request that their likeness be removed from the department's files. This bill would enhance public safety by preventing criminals and DWI offenders from hiding from legitimate investigative agencies. It would also help in preventing fraud and the manufacture of duplicate licenses. This bill affects only those people who fit into one of the three listed categories. Anyone else would still be allowed to obtain such a waiver. The amendment prohibits the person convicted of DWI, aggravated DWI or reasonably equivalent offense, from being entitled to apply for a waiver to remove their driver's license image from the Department of Safety's records for at least seven years after the date of conviction. A person convicted of a felony in this state or any other jurisdiction, shall not be entitled to apply for a waiver to remove that person's driver license image from the department for at least ten years after the date of conviction. The committee recommends ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 186-FN, relative to associate justices of the Manchester District Court and Nashua District Court and making an appropriation therefor. Judiciary Committee. Vote: 6-1. Inexpedient to legislate, Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: Regrettably, the committee voted unanimously to make this bill inexpedient. We know that there is a great need in that community and we certainly support that, that problem will be addressed. We have been made aware that HB 52 is coming over to us as request of the governor and that bill proposed to address it in another manner whereby it won't cost the state so much money. We certainly believe that this is a serious problem and our inexpedient motion to this piece of legislation is not in any way to diminish that importance. The committee would ask for inexpedient to legislate on SB 186.

Committee report of inexpedient to legislate is adopted.

SB 56-FN-L, establishing a method for redemption of property by former owners of property seized for back taxes and limiting the recovery of municipalities in tax sales to back taxes. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-0608s
09/01

Amendment to SB 56-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT establishing a method for repurchase of tax-deeded property by the former owner of the property and limiting the recovery by municipalities of proceeds from sales of tax-deeded property.

Amend the bill by replacing all after the enacting clause with the following:

1 New Sections; Repurchase of Property; Proceeds From the Sale of Tax-deeded Property. Amend RSA 80 by inserting after section 87 the following new sections:

80:88 Repurchase of Property by Former Owner.

I. Notwithstanding the provisions of RSA 80:18 - 80:86 or any other provision of law, a former owner of property deeded to a municipality for nonpayment of taxes may repurchase the property from the municipality at any time prior to the date of the disposition of the property by the municipality or, if not sold, at any time prior to 5 years from the date of recording of the tax deed if:

(a) The former owner notifies the municipality by certified mail that the former owner is ready, willing, and able to pay all back taxes and statutory interest as if accrued through the date of repurchase, accrued interest, penalties, legal costs, and such other incidental and consequential costs as are reasonably incurred or estimated by the municipality in connection with the property; and

(b) The former owner pays all back taxes and statutory interest as if accrued through the date of repurchase, accrued interest, penalties, legal costs, and such other incidental and consequential costs as are reasonably incurred or estimated by the municipality in connection with the property within 10 days of receipt of the former owner's notice by the municipality.

II. The deed from the municipality pursuant to a repurchase shall convey title to the property, or such portion that has not been disposed of by the municipality, to all of the former owners in the same proportionate undivided interests as the former owners of record, and shall vest title in the former owners subject to any liens of record against the property at the time of the tax deed to the municipality, and subject to any leases, easements, or other encumbrances as may have been granted or placed on the property by the municipality. Any owner paying more than a proportionate share of the purchase price to the municipality shall have a lien on the property for the amount of the excess paid.

III. Any conveyance under this section shall not be subject to transfer tax under RSA 78-B.

IV. For purposes of this section, "date of disposition" shall include without limitation the date the municipality enters into a binding contract to sell the property to a third party buyer, which contract may be subject to contingencies.

80:89 Recovery of Proceeds From the Sale of Tax-deeded Property Limited.

I. Notwithstanding any other provision of law, for any sale of tax-deeded property held by a municipality on or after the effective date of this section, the immediate recovery of proceeds from the sale shall be limited to back taxes and statutory interest as if accrued through the date of sale, accrued interest, penalties, legal costs, and such other incidental and consequential costs as are reasonably incurred or estimated to be owed in connection with the property sold. Except as provided in paragraph II, any recovery above this amount shall be paid by the municipality, first to each lienholder entitled to notice under RSA 80:77-a in the same order of priority as such liens were recorded in the appropriate registry of deeds, and then to the former owner, within 30 days of the settlement by the purchaser of the property sold.

II. If there are no lienholders entitled to payment as provided in paragraph I, and if the current address of the former owner is not known, and reasonable efforts have been made to locate said owner, said refund

shall be placed in an account with a local bank, with interest payable to the municipality, to await claim by the former owner. If no claim for the refund is made within 5 years from the date of settlement, then the funds shall be remitted to the municipality to be used for town business expenses within the framework of established town budgets.

III. If there are 2 or more former owners, the municipality shall divide the net proceeds payable into shares proportional to the former owners' record interests in the property at the time of the tax deed, and shall pay such shares separately to such former owners pursuant to paragraph I, or hold such shares separately for such former owners pursuant to paragraph II.

80:90 Former Owner. For purposes of RSA 80:88 and 80:89, "former owner" shall include any heir, successor, or assign of any former owner.

80:91 Liability and Obligations Limited. With respect to actions of a municipality under RSA 80:88 and 80:89, if the municipality complies with the provisions of this chapter it shall not be liable to any person who has or had a legal interest in the property for the management of the property or the consideration received upon disposition of the property. During the period specified in RSA 80:88, I, the municipality may dispose of the property in all respects as the fee owner thereof, including leasing or encumbering all or any portion of the property, or conveying all or any portion of the property to any person or entity, public or private, for any consideration or for no consideration, in each case, without any accountability to the former owner, except that the proceeds of any such sale must be accounted for as provided in RSA 80:89. Nothing in this chapter shall obligate a municipality to dispose of property acquired by tax deed.

2 Applicability. Section 1 of this act shall apply only to properties taken by municipalities by tax deed on or after the effective date of this act.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a method for repurchase of property by former owners of tax-deeded property.

The bill also limits the immediate recovery of municipalities for sales of tax-deeded property to the cost of back taxes and statutory interest as if accrued through the date of sale, accrued interest, penalties, legal costs, and incidental and consequential costs. The remainder of the recovery is to be returned to any priority lienholder and then to the former owner or, if the former owner cannot be located, placed in a bank account for 5 years awaiting a claim by the former owner. If the remainder is not claimed by the former owner within the 5-year period, the funds in the account will be remitted to the municipality.

SENATOR WHIPPLE: Senate Bill 56-FN-L, establishing a method for redemption of property by former owners of property seized for back taxes and limiting the recovery of municipalities in tax sales to back taxes, TAPE INAUDIBLE and inconsequential costs. The remainder of the recovery is to be returned to any priority lienholder and then to the former owner, or if the former owner cannot be located, placed in a bank account for five years awaiting a claim by the former owner. If the remainder is not claimed by the former owner within the five year period, the fines in the account will be remitted to the municipality. The committee recommends that this bill be ought to pass as amended.

Amendment adopted unanimously.

Ordered to third reading.

SB 105, relative to rent collection upon delinquency in payment of common expenses by condominium unit owners. Public Affairs Committee. Vote: 6-0. Ought to pass with amendment, Senator McCarley for the committee.

1997-0247s
08/02

Amendment to SB 105

Amend RSA 356-B:46-a as inserted by section 1 of the bill by deleting paragraph V.

SENATOR MCCARLEY: Senate Bill 105, relative to rent collection upon delinquency in payment of common expenses by condominium unit owners. This bill addresses three problems: 1) late fee payments, 2) association's ability to enforce governing documents, and 3) problem tenants. If a condo owner is delinquent in payment of condo fees, the services covered by those fees continue to be provided, i.e., the lawn is still mowed, outside lights are still replaced, etc. It simply is not fair for landlords to collect rent and not pay the association. Neighbors should not be expected to cover the costs of other condo owners' delinquent condo fees. The only semi effective means of recourse currently used by condo associations is to tow cars. However, associations are towing cars of the tenants, not the condo owners who are responsible for late payment. Most delinquent payment situations involve owners who do not reside in New Hampshire and who simply do not want to be bothered with condo fees. Currently, tenants are nervous about remitting rent payment directly to the condo association for fear that current law would not support their actions. Concerning problem tenants, legally only landlords are permitted to evict tenants. Senate Bill 105 will allow the association to seek the eviction of a tenant who violates condo documents. Paragraph five of the bill has been removed due to some concern about the order and succession of rent payment: who should be paid first: the condo association or the banks. The committee recommends this bill to ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senator Rubens (Rule #42) on SB 105.

SB 109, relative to the official ballot voting option. Public Affairs Committee. Vote: 6-0. Ought to pass with amendment, Senator Rubens for the committee.

1997-0619s
08/01

Amendment to SB 109

Amend the bill by replacing all after the enacting clause with the following:

1 Expenditures Prior to Budget Adoption. Amend RSA 32:13, II to read as follows:

II. This subdivision shall not be construed to affect the authority of the local governing body, in towns with a *February or* March annual meeting and a January through December fiscal year, to make expenditures between January 1 and the ~~annual meeting~~ *date a budget is adopted* which are reasonable in light of prior year's appropriations and expenditures for the same purposes during the same time period.

2 Meetings; When Held. Amend RSA 39:1 to read as follows:

39:1 Meetings, When Held. A meeting of every town shall be held annually on the second Tuesday of March, ***or in accordance with RSA 40:13 if that provision is adopted in the town***, for the choice of town officers and the transaction of all other town business. A town meeting may be warned by the selectmen, when, in their opinion, there shall be occasion therefor. In no event shall a special town meeting be held on the biennial election day.

3 Optional Provisions. Amend RSA 39:2-a to read as follows:

39:2-a Optional Provisions.

I. Any town may at an annual meeting vote to conduct the choice of town officers elected by an official ballot and other action required to be inserted on said official ballot on the second Tuesday of March or on the second Tuesday of May if the town has adopted the provisions of RSA 31:94-a and authorize the selectmen to choose another day for the second session of the town meeting for the transaction of all other town business. Upon written application of 10 or more voters, addressed to the selectmen, the following question shall be submitted to the voter at such annual meeting: "Do you approve of having 2 sessions for the annual town meeting in this town, the first session for choice of town officers elected by an official ballot and other action required to be inserted on said official ballot and the second session, on a date set by the selectmen, for transaction of other business?" This question shall appear upon the official ballot in towns having such a ballot, otherwise upon a special ballot prepared by the town clerk. Proper provision shall be made on the ballot to permit the voter clearly to indicate his choice on the question. If a majority of the legal voters present and voting on the question vote in the affirmative, the provisions of this section shall be declared adopted. In any town adopting the provisions hereof the warrant for an annual meeting held hereunder shall prescribe the place, day and hours of each session of said meeting and said warrant shall be posted as required for any town meeting. In a town which has adopted the provisions of this section no business other than the election of town officers elected by an official ballot and other action required to be inserted on said official ballot shall be taken up at the first session of said meetings. A town which has adopted the provisions hereof may rescind such action in the same manner as provided for its adoption. The question in this case shall be: "Shall the provisions for having 2 sessions of the annual town meeting be declared no longer in effect in this town?"

II. Alternatively, a town may conduct its meetings and the election of officers through use of the official ballot by adoption of the provisions of RSA 40:13.

4 Timing and Use of First Session. Amend RSA 40:13, III and IV to read as follows:

III. The first session of the annual meeting, which shall be for the transaction of all business other than voting by official ballot shall be held between the ~~[second]~~ ***last*** Tuesday of ~~[March]~~ ***February*** and the ***second*** Saturday following the ~~[second]~~ ***last*** Tuesday of ~~[March]~~ ***February***, at a time ***and place*** prescribed by the local political subdivision's governing body. The ~~[second Tuesday in March]~~ ***last Tuesday in February*** shall be deemed the annual meeting date for purposes of all applicable statutes pertaining to hearings, notice, petitioned articles, and warrants, including, but not limited to, RSA 31:95-d, 32:5, 32:16, 33:8-a, 39:3, 39:5, 195:12, 197:6, ~~[and]~~ 197:7, ***and 675:3. The warrant shall be posted not fewer than 14 days prior to the date of the first session.***

The 14 days shall not include the day of posting nor the day of the meeting, but shall include Saturdays, Sundays, and legal holidays within the period.

IV. [The first session of the meeting, governed by the provisions of RSA 40:4, 40:4-a, 40:4-b, 40:4-f, and 40:6-10, shall consist of explanation, discussion, and debate of each warrant article.] ***The first session of the meeting shall consist of explanation, discussion and debate of each warrant article, and shall be governed by the provisions of RSA 40:4, 40:4-a, 40:4-b, 40:4-f, and 40:6-40:10; provided, however, that RSA 40:10, II shall not apply, and a vote to restrict reconsideration pursuant to RSA 40:10, I shall be deemed to prohibit any further action on the restricted article until the second session.*** Warrant articles may be amended ***at the first session***, subject to the following limitations:

(a) [~~Warrant articles~~] ***Questions*** whose wording is prescribed by law shall not be amended ***in any manner inconsistent with the intent of the enabling statute.***

(b) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.

5 Alternative Budget. Amend RSA 40:13, XI to read as follows:

XI. An estimated amount of the previous year's operating budget, as adjusted pursuant to paragraph X, shall be disclosed to the voters at the first session. This amount shall not be amended by the legislative body, but may be adjusted by the governing body, acting on relevant new information at any time before the ballots are printed. The wording of the [~~article on~~] ***second session ballot question concerning*** the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles, the amounts set forth on the budget posted with the warrant, (***or as amended by vote of the first session***) for the purposes set forth therein, totaling \$ _____ ? Should this article be defeated, the operating budget shall be \$ _____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

6 Reconsideration and Special Meetings. Amend RSA 40:13, XV and XVI to read as follows:

XV. Votes taken at the second session shall not be reconsidered [~~except by warrant article at a subsequent annual or special meeting~~].

XVI. The warrant for any special meeting shall prescribe the date, place and hour for both a first and second session. The second session shall be warned for a date not fewer than 28 days nor more than 60 days following the first session. The first and second sessions shall conform to the provisions of this subdivision pertaining to the first and second sessions of annual meetings. Special meetings shall be subject to RSA 31:5, 39:3, 195:13, 197:2, and 197:3, provided that no more than one special meeting may be held to raise and appropriate money ***for the same question or issue*** in any one calendar year or fiscal year, whichever applies, and further provided that any special meeting held pursuant to paragraphs X and XI shall not be subject to RSA 31:5 and RSA 197:3 and shall not be counted toward the number of special meetings which may be held in a given calendar or fiscal year.

7 Vote Necessary to Adopt Official Ballot Referendum. Amend RSA 40:14, I to read as follows:

I. This subdivision may be adopted by any local political subdivision as defined in RSA 40:12. A 3/5 vote of ~~[those voting]~~ **the votes cast on the question** shall be required to adopt this subdivision.

8 Vote Necessary to Adopt Official Ballot Referendum. Amend RSA 40:14, VI to read as follows:

VI. If 3/5 of ~~[those voting]~~ **the votes cast** on the question ~~[vote "yes,"]~~ **are in the affirmative**, RSA 40:13 shall apply within the local political subdivision at the annual or special meeting next following.

9 Vote Necessary to Rescind Official Ballot Referendum. Amend RSA 40:14, VII to read as follows:

VII. Any local political subdivision which has adopted RSA 40:13 may consider rescinding its action in the manner described in RSA 40:13, III-VI. The wording of the question shall be: "Shall the provisions for voting by official ballot on all issues before the (local political subdivision) under RSA 40:13 be limited to election of officers and certain other questions?" A 3/5 vote of ~~[those voting]~~ **the votes cast on the question** shall be required to rescind the provisions of this subdivision, except in the case of repeal by charter enactment under RSA 49-D.

10 New Subdivision; Multi-Town School Districts; Dispersed First Session Meeting Locations; Additional Polling Places for Second Session Voting. Amend RSA 40 by inserting after section 14 the following new subdivision:

Additional Polling Places for Second Session Voting

40:15 Additional Polling Place for Second Session Voting.

I. Any multi-town school district adopting the provisions of RSA 40:13 may vote to use additional polling places for the second session of the annual meeting. The additional polling places shall be the regular polling places for town or city elections in each member town and city of the district. The school district moderator shall supervise the election process and appoint an assistant moderator for each additional polling place. The school district clerk shall appoint an assistant clerk for each additional polling place. Each assistant moderator and assistant clerk shall be domiciled in the town covered by the additional polling place served by such assistant moderator or assistant clerk. The powers and duties of the assistant moderator and the assistant clerk shall be the same as those of the moderator and the clerk at the central polling place except as otherwise provided in the election laws. The inspectors of elections appointed as provided in RSA 658:2 shall be sworn in by the assistant moderator before entering upon their duties. All additional costs resulting from the establishment of additional polling places shall be borne by the school district.

II. Paragraph I of this section may be adopted by any multi-town school district simultaneously with adoption of RSA 40:13 or any time after the adoption of RSA 40:13.

III. The school district shall place the question on the warrant of the annual meeting under the procedures set out in RSA 197:6, and the question shall be voted on by official ballot in accordance with the procedures established in RSA 671:20-30, including all requirements pertaining to absentee voting, polling places, and polling hours.

IV. A public hearing shall be held by the school board on the question at least 15 days, but not more than 30 days, before the question is to be voted on. The public hearing shall be held in each town or city embraced by the district. Notice of the hearing shall be posted in at least

2 public places in each town or city of multi-town districts, and published in a newspaper of general circulation at least 7 days prior to the date of the hearing.

V. The wording of the question shall be: "Shall we adopt the provisions of RSA 40:15 to allow voting at additional polling places for the second session of the annual meeting?"

VI. If a majority of the votes cast on the question are in the affirmative, and RSA 40:13 has also been adopted then RSA 40:15 shall apply within the district at the annual or special meeting next following.

VII. Any multi-town school district which has adopted RSA 40:15 may consider rescinding its action in the manner described in RSA 40:15, III-VI. The wording of the question shall be: "Shall the provisions for additional polling places for the second session of the annual meeting under RSA 40:15 be rescinded so that the voting shall be held at a central location?" A majority vote of the votes cast on the question shall be required to rescind the provisions of this section.

11 Teacher Nomination Notification Date. Amend RSA 189:14-a, I(a) to read as follows:

I.(a)(1) Any teacher who has a professional standards certificate from the state board of education and who has taught for one or more years in the same school district shall be notified in writing ~~[on or before April 15]~~ ***within 15 days of the approval of the district budget by the legislative body*** if that teacher is not to be renominated or reelected, ***provided, that no notification shall occur later than May 15.***

(2) Any such teacher who is not renominated or reelected on the basis of performance or any other non-budget reason shall be notified not later than April 15.

12 Timing for School District Meetings. Amend RSA 197:1 to read as follows:

197:1 Annual. A meeting of every school district shall be held annually between March 1 and March 25, inclusive, ***or in accordance with RSA 40:13 if that provision is adopted in the district***, for raising and appropriating money for the support of schools for the fiscal year beginning the next July 1, for the transaction of other district business and, in those districts not electing their district officers at town meeting, for the choice of district officers.

13 New Paragraph; Election Dates; Official Ballot Referendum. Amend RSA 669:1 by inserting after paragraph III the following new paragraph:

IV. Any town which has not adopted RSA 40:13, the official ballot referendum form of meeting, but which is in, or is part of, a school district which has adopted it, may at any annual or special meeting, under an article in the warrant for such meeting, vote to coordinate the town's election with the school district's election, and may rescind such action in a like manner. Such action shall not take effect until the annual election next following such vote. The joint elections shall be held on the second Tuesday of April, as set forth in RSA 40:13, VII. The place and polling hours shall be determined by, and the election shall be supervised by, the election officials of the town, as provided in RSA 671:26. The newly elected officers shall take office at the close of the meeting at which they were elected. The town and school district shall allocate the costs of the joint elections in the same manner as in previous years, or as mutually agreed upon by the governing bodies of the town and school district. In any year in which adoption or rescission of RSA 40:13 is to appear on the ballot in either the town or the school district, the town

may take an anticipatory vote to coordinate elections pursuant to this paragraph, such vote to take effect only if RSA 40:13 is adopted or rescinded in the school district but not the town.

14 Applicability. This act shall apply to all local political subdivisions, as defined in RSA 40:12, which adopt RSA 40:13 on or after June 30, 1995.

15 Effective Date. This act shall take effect upon its passage.

SENATOR RUBENS: Senate Bill 109, relative to the official ballot voting option. This bill makes adjustments to the town meeting and election laws to facilitate the use and operation of the new official ballot voting options commonly known as SB 2. The original language of the bill resulted from a legislative committee established in 1996, to examine procedural aspects of the official ballot law. The bill as amended leaves the official ballot voting date as is so that towns in multi-town school districts will have the option to move the voting date. This bill does not change the date of the official ballot voting day. The amendment to the bill also removes the reference to the first session and amends teacher notification deadline to within one hundred fifteen days of the legislative body's approval of the district budget. The committee recommends that this bill ought to pass as amended.

SENATOR LARSEN: I only want to say briefly, that SB 109 in my mind, represents a cautionary note to all of us because what we are doing is correcting the official ballot law that we passed last session. Many of us knew that we did this too hastily and now we are going back and correcting it and trying to fix the flaws in it. I think that as we look at legislation of this magnitude, we need to look carefully and take the time with it. I think that you will see that in the Education Committee as well as in other issues. I urge the Senate to look at these broad ranging bills very carefully rather than go back and correct them in the following session. Thanks.

SENATOR J. KING: I just wanted to let the body know that I voted against SB 2 last session and that I will vote for this, and the only reason is, so as to get them out of the mess that they are in as a result of SB 2. Thank you.

Recess.

Out of recess.

Senator Rubens requested a roll call.

Senator Rubens withdrew his request for a roll call.

SENATOR RUBENS: I would like to comment on the quality of legislative debate that occurred around SB 109 from SB 2 two years ago. This time on SB 109 all of the parties, the School Board Association, the Municipal Association were extremely constructive and lent constructive positive advice as to the construction of the bill were during SB 2, a number of these parties were hostile and where not constructive during the debate and did not bring their concerns to the table at the time that the bill was being adopted. So I want to make sure that the contrast between the process and SB 109 and SB 202 instruct us so that all of the parties remain helpful during the legislative process. Thank you very much.

Amendment adopted.

Ordered to third reading.

SB 143, authorizing a municipality to change the date for filing for an elderly exemption. Public Affairs Committee. Vote: 5-2. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-0612s

09/08

Amendment to SB 143

Amend RSA 72:33-b, I as inserted by section 2 of the bill by replacing it with the following:

I. Any town or city may opt to change the date for filing for an elderly exemption under RSA 72:33 from March 1 to the August 1 prior to the setting of the tax rate. Any town or city may adopt the August 1 date for filing in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting under the procedures set out in RSA 39, and shall be voted upon by ballot. In a city or charter town, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. The legislative body of a city or charter town may vote to place the question on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.

(b) The governing body shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(c) The wording of the question shall be: "Shall we adopt the August 1 prior to the setting of the tax rate as the date for filing for an elderly exemption from the property tax?"

Amend RSA 72:33-b, III as inserted by section 2 of the bill by replacing it with the following:

III. Within 60 days from the initial adoption of the August 1 filing date for the elderly exemption, the governing body of the town or city shall send a prominent written notice of the change of filing date to all residential property taxpayers in the town or city.

SENATOR K. WHEELER: This bill authorizes a municipality to vote to change the date for filing for an elderly exemption from March 1 to August 1 prior to the setting of the tax rate. This is enabling legislation that will allow local government to rely on accurate information to formulate their tax rates, will allow local government to provide more accurate MS1 forms to the Department of Revenue Administration, and will protect cities and towns from being forced to apply unnecessary funds to an overlay account because of potential unforeseen exemptions. This is simply enabling legislation. The committee recommends that this bill ought to pass as amended.

SENATOR GORDON: I am going to rise in opposition SB 143. I have to say that I have come to the Senate today a little bit refreshed because I had my town meeting last night. Actually, I had two things happen last night, I had town meeting last night and I happened to have spoken to one of my Senate colleagues. I think that the thing that I was reminded of is that being here is a lot less about politics or it should be a lot less about politics and probably a lot more about people. I probably didn't come with the idea that I would make a big issue about SB 143 today,

but I think that having been so refreshed, I am going too. This is the issue. I can tell you how I am the town moderator, but I can tell you how pleased I was with the town of Bristol last night. Many of you probably saw on your town warrant, an article having to do with elderly exemptions and means testing elderly exemptions. It so happens that in the town of Bristol, my town, that we were a little more generous than other towns, but we are adopting the new standard that set, the new minimum standard. As a result, several people would get less in elderly exemptions than they would in the past. Well, the towns' people went along with the selectmen and said, this is a new standard and we are going to impose this. The townspeople then passed another article at the town meeting and said, that they don't want any of their elderly to get less than what they got the year before. That is the type of town that I live in and those are the types of people that I love. Two weeks ago I was interviewed by the Bar Association, the Bar Journal. They came in and asked me a couple of questions. This was for the Bar News that they publish. One of the questions that they asked was, "We don't understand it, why the court system is faced with so much legislation here in Concord? Why are we seeing so many bills aimed at the Judiciary?" Of course everyone has their own opinion. But I have mine and the issue is this, we have a tremendously efficient court system, we are the envy of all other states, our court system is so efficient right now. People look at us and say, "Gee we wish that we were that efficient." But unfortunately, in the legislative branch, where we face election every two years, we know who we work for. We work for the people. The executive branch knows that they work for the people. Unfortunately, what is happening in the judiciary, is that we are working on efficiency, and maybe they have lost a little sight of whom we are working for, working for the people. Maybe that is what has to be brought back into context is working for the people. They have to focus on the fact that they are for the people, and by the people as well. What we did two years ago with SB 16 is we said that we were going to give a priority. You know, we caused people who have to sign up in advance to get their elderly exemptions, and they may not know. Not just elderly exemptions, but blind exemptions, people who are blind. People who are veterans. We make them sign up in advance. We said that isn't really fair, what we are going to do is that we are going to give people a priority and if they get their tax bills and if they found out that they didn't get their tax exemption, what we are going to do is give them to March 1, following their tax bill, the same process that we have for tax abatements, we are going to give them until March 1 of the following year to go back to the town and say, "sorry I made a mistake, I forgot to sign up, I want my abatement." That is not a lot of money to most people, usually to people it is one hundred dollars to two hundred dollars. But it is important. It is important to them. In fact, it is a heck of a lot more important to them than it is for the community. What this bill does is to undo that. In most towns, I don't think that most towns would adopt this so-called enabling legislation. We heard that this was only enabling legislation. I don't think that most towns would adopt this. I don't think any town would adopt this. I know that city councils view things differently. Specifically, city councils who may have put a tax cap of 3 percent. That may be the case in Nashua. They may view things different, because they might put the emphasis on efficiency in government and give that a higher priority than the people that they are supposed to serve. I oppose the bill because I think that we ought to give people the opportunity. We ought to make these exemptions for elderly, and this was supported by

the AARP two years ago, the blind, and the veterans. I think that we ought to give them the priority. We ought to give them the exemption. I don't think that they ought to be punished in this process. I don't think that this is good enabling legislation. I would ask you to give your priority on people and not efficiency in government. Thank you for giving me this brief opportunity, Mr. President. Thanks.

SENATOR J. KING: Senator Gordon, would you believe that if the shoe fits that is fine, but the shoe doesn't fit on some of the areas throughout the state? So that by giving this cost due to them, they can do better bookkeeping and plan better for the future year. Especially the larger cities like Manchester and Nashua, Portsmouth and probably some of the other ones. It doesn't affect anyone else, it's enabling legislation to provide for a little quirk, that has come about and can be taken care of. Would you believe that?

SENATOR GORDON: Senator King, what I believe is, that we have for years, decided that we don't make people sign up in advance for tax abatements. What we do every year is we cause our communities to plan for the fact that there is going to be a certain amount of tax abatement. That number far exceeds any amount that ever would be given in exemptions for poor people who forgot to sign up. If we can expect our communities to plan for tax abatements, I think that we can expect them to plan for exemptions.

SENATOR J. KING: Would you believe that the amount of money that is involved in here is probably a sizable amount of money, not when you are talking about the smaller towns where it is a much smaller amount of money, so they have to plan a little differently?

SENATOR GORDON: Senator King, I believe that everything is proportional. We have about 2,700 people in Bristol and I understand last night from what the selectmen said that we have twenty-two people getting these exemptions. My guess is that, that is probably a proportionate number to the number of people in Manchester and you would have to plan proportionately.

SENATOR PIGNATELLI: I am glad that you feel refreshed after your town meeting, Senator Gordon. I went to my first town meeting ever last night in Hollis. As many of you know, my district has no towns, so I have never attended a town meeting before, but I was very impressed with the town meeting in Hollis. I might point out that Senator Squires is the moderator in the town of Hollis. So I feel pretty refreshed too. I needed to. I am going to rise in support of SB 143. As Senator Wheeler said and Senator Gordon reiterated, it is enabling legislation. It is an issue in Nashua and I understand in some of the other cities and towns as well. It will not change the qualifications that someone needs to have to apply for an elderly exemption. We need this in order to plan better for our tax rate in Nashua. What has happened is that we are not sure how much money to put into our overlay account in Nashua, our contingency account. So we need to... if we don't know how many elderly people are receiving exemptions, put a lot more money in. When there is more money in the overlay account, we might not have the money to spend on helping our senior center in Nashua or helping the elderly in terms of Meals on Wheels or other programs that we may want to help the elderly on. So I don't look at it as a way to try and prevent the elderly from getting their rightful exemptions. Usually you know if you are going to be elderly when you are going to apply for an exemption, I would

hope that you would. Maybe it is incumbent upon us as communities, to educate the people in our community as to what exemptions that they may qualify for and when they need to have to apply for these by. So I urge you to, for the sake of Nashua, and understand, Manchester and some other communities, pass this enabling legislation. Thank you very much.

SENATOR SQUIRES: I, unlike my colleague from Bristol, came today in a state of fatigue. The town meeting, though, was a bit tiring; but nevertheless, I am not so fatigued that I would not like to speak to this issue. For over one hundred years this General Court has, on many occasions exhibited a special concern for the welfare of New Hampshire citizens by passing legislation designed to protect our inhabitants from the scalawags and miscreants who occupy positions of local government. How these same citizens possess the wisdom to select us while foolishly electing their local government seems, at best, an enigma. In 1996, Senate Bill 116 exemplified this tendency when we assumed that local government was unable, reluctant, or incapable of dealing fairly with the question of when an elderly citizen might apply for a tax exemption. Undoubtedly, many vivid examples suggested the need for reform and thus it appeared necessary for every city and town to surrender its control of this matter and bow to the superior wisdom of the General Court much in the manner of a single sized shoe being placed on each and every foot. In Nashua, and to some extent in Hollis, this legislative footwear doesn't fit. Why, you may ask? First, the current filing date of March 1 makes it difficult to file an accurate MS1 report. This rather arcane document, due on September 1, requires a reporting of taxable and non taxable property along with exemptions that the Department of Revenue Administration uses to calculate a community's tax rate.... So here we are with a fiscal year beginning on July 1, trying to report on September 1, something that cannot be known until March 1. Which means that we, in Nashua, not being clairvoyants, must establish an estimate, otherwise known as an "overlay" account for which revenue must be generated. Several years ago, the citizens of Nashua established a spending cap that further complicates the situation because excess estimates in the "overlay" account sit there until March of the following year unavailable for any other purpose. Such, my fellow senators, is the wisdom of the General Court. You will hear, I am sure, tales of individuals who, for whatever reason, failed to apply for an elderly exemption until, when well advanced in age, desire to do so. But surely, in each and every year preceding this state of advanced age, there is an opportunity to accomplish this. Given the fact that Nashua has semi annual tax billings, the effect of the legislation before you will have an impact on one half of the tax. To further help our elderly citizens, Nashua is more than willing to send a prominent notice to all its citizens following the proposed change as well as print the new date on the back of each and every tax notice. Senate Bill 143 is deliberately crafted as enabling legislation. No community is forced to change. It simply says that should a community choose to do so, a process is outlined as to how this may be accomplished. I ask you to vote in support of this bill to allow New Hampshire's second largest city manage its affairs at the local level, believing that those elected to responsible positions in local government will act in the best interests of their citizens to a degree that is equal to if not greater than those directions that have emanated from the General Court.

SENATOR LARSEN: Like Senator Gordon, I am proud of my own community for extending elderly exemptions Monday night at city council.

I heard a number affixed as to what Concord's budget exemptions that I thought that all of you might be interested in. Concord is estimated to spend six hundred thousand to seven hundred thousand a year to allow for elderly exemptions. We support that. We wanted to make sure that our language extends their right to apply until March. We extended that right and spoke to not having any elderly being dropped from the exemption who are currently qualifying for it. Nonetheless, I support this bill because I also understand the difficulty of operating on a budget as a municipality must and particularly within a tax cap. We all hear about local control. We preach more respect for elected officials. This is our chance to vote right. Thanks.

Question is on the committee amendment.

A roll call was requested by Senator Gordon.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Johnson, Fraser, Rubens, McCarley, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Danaïs, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Patenaude, D. Wheeler, Francoeur.

Yeas: 19 - Nays: 5

Amendment adopted.

Ordered to third reading.

SB 198, relative to the standard for granting of variances by zoning boards of adjustment from dimensional requirements. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-0630s

10/02

Amendment to SB 198-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 Practical Difficulty for Variance from Dimensional Requirement. RSA 674:33, I(b) is repealed and reenacted to read as follows:

(b) Authorize upon appeal in specific cases such variance from the terms of the zoning ordinance that shall be consistent with the public interest, not result in a diminution in value of surrounding properties, be in keeping with the spirit of the ordinance, and do substantial justice. In addition, the burden shall be on the appellant to show by a preponderance of the evidence that a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship, except in the case of a variance from dimensional requirements on existing lots of record, where the burden shall be on the appellant to show by a preponderance of the evidence that strict compliance with the ordinance for a proposed improvement will result in a practical difficulty.

SENATOR PATENAUDE: This bill allows a zoning board of adjustment (ZBA) to grant a variance from a dimensional requirement in zoning ordinances if strict compliance with an ordinance would pose a practical difficulty. Currently two types of variances are awarded by the ZBA's: use variances and dimensional variances. For both types of variances, the ZBA administers a five point test, included in which is the requirement that the individual applying for a variance must show hardship, that is,

that there is no other reasonable use for the land. Because it is no easy task to prove hardship on a dimensional variance, SB 198 requests that different standards apply to requests for dimensional variances and requests for use variances. Distinguishing use and dimensional variances' standards is currently being done in other states. ZBA's across the state are crafting hardships that do not necessarily exist to accommodate variance requests. In essence, strict application of the current law encourages ZBA's to break the law. Relaxing the measure would make members of the ZBA's more comfortable with their positions in the community. This is a fairness issue. The committee recommends unanimously, that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 189-FN-L, authorizing the department of safety to issue resident driver's licenses to certain aliens. Transportation Committee. Vote: 6-0. Ought to pass with amendment, Senator Cohen for the committee.

1997-0672s

03/02

Amendment to SB 189

Amend the bill by replacing all after the enacting clause with the following:

1 License for Nonresident. RSA 263:39-a is repealed and reenacted to read as follows:

263:39-a Intrastate License for Nonresident.

I. The director may issue a New Hampshire driver's license to a nonresident alien who is living in New Hampshire on a temporary basis:

(a) For the purposes of attending a public or private educational institution which has a regular faculty, curriculum, and organized body of pupils or students in attendance and is enrolled in such education institution; or

(b) For the purposes of engaging in lawful employment, occupational, or business activity, and is engaged in such activity.

II. The director may require any of the following:

(a) Certification from the foreign government regarding the person's driving record and licensing status.

(b) Submission of social security number, or, if the person does not qualify for such a number, the submission of certification to that effect as is acceptable to the commissioner.

(c) Written or other testing.

(d) Proof of compliance with the conditions set forth in paragraph I.

(e) Proof of identification as may be acceptable to the commissioner.

III. The term of the license shall be no longer than 4 years from the date of issuance, and the director may set a lesser term in accordance with the length of the person's residence in New Hampshire.

IV. Nothing in this chapter shall preclude the director from denying a license if the director determines that licensure of the person may be contrary to the public safety. Once licensed, the individual shall be subject to the same provisions of the law as all other licensees. When the person no longer meets the conditions specified in paragraph I, the person shall forthwith return the license to the director and the license shall become invalid.

2 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill authorizes the director of the division of motor vehicles to issue driver's licenses to certain nonresidents living in New Hampshire on a temporary basis for the purposes of attending a public or private educational institution or engaging in a lawful employment, occupational, or business activity.

SENATOR COHEN: Senate Bill 189, permits the Department of Safety to issue interstate driver's licenses to nonresident aliens who are in New Hampshire for educational purposes. Prior to May of 1996, nonresident aliens residing in New Hampshire for educational purposes were able to obtain an interstate driver's license. However, in May of last year, the Division of Motor Vehicles changed their policy on this and began to issue New Hampshire-only license for international students and staff. A New Hampshire-only license severely restricts their ability to travel. There was testimony at the public hearing that suggested that the department's changes are jeopardizing this state's colleges and universities ability to recruit international scholars. This could translate into forty-two million dollars in revenues to the state. Senate Bill 189 and its amendment respond to these concerns by allowing an interstate license to be issued, provided nonresidents and aliens satisfy the requirements prescribed by the Department of Safety. The Senate Transportation Committee unanimously recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 199, requiring all aircraft landing in New Hampshire to be equipped with a crash location signal device. Transportation Committee. Vote: 6-0. Inexpedient to legislate, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: You may remember that last month we passed SR 3 requesting that the Federal Aviation Administration require emergency locator transmitters on all aircraft operating in the United States. **TAPE INAUDIBLE**. We passed this resolution and it is a more appropriate method of addressing this issue. The committee voted unanimously, inexpedient to legislate on SB 199. I urge your support for that motion. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 213-FN-A, establishing a fund for loans to rehabilitate class III railroads and cog railroads and making an appropriation therefor. Transportation Committee. Vote: 6-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 213 extends the railroad rehabilitation fund to include cog railways. It makes an additional \$1.5 million available to be used in the loan program. The loan program was originally created by the legislature in 1994 when federal railroad assistance ended. This program has been so successful in improving the state's rail lines that the Department of Transportation is requesting an additional \$1.5 million to be made available for the revolving funds to assist other railways wishing to rehabilitate their lines. Senate Bill 213 also makes the cog railway, specifically, the Mount Washington Cog Railway, eligible to obtain loans through this program. The Transportation Committee unanimously recommends this bill as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

Senators Francoeur and D. Wheeler in opposition to SB 213.

SB 74-FN, allowing holders of retail wine and combination wine and beverage licenses to sell fortified wines. Ways and Means Committee. Vote: 3-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: Senate Bill 74-FN allows holders of retain wine and combination wine and beverage licenses to sell fortified wines. This bill is a request from the Liquor Commission. Senate Bill 74-FN would allow all wines that have an alcohol content of up to 24 percent, that is port wine, to be sold in groceries and drug stores. Fortified wine has an alcoholic range of between 15.5 percent and 24 percent. This typical wine with liquor added to boost that alcohol content, that is brandy. The Liquor Commission feels that this bill would increase state funds, general funds, unrestricted revenue by one hundred eighty-one thousand dollars in fiscal 1998, and by one hundred ninety thousand dollars in fiscal 1999, and by two hundred thousand dollars in fiscal 2000, and two hundred and ten thousand dollars in fiscal 2001. I would point out to the Senate that if you vote in favor of this legislation that you are not voting for a new sin tax, you are only voting to enhance an existing sin tax. The committee on Ways and Means recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 112, establishing a commission on environmental programs. Executive Departments and Administration Committee. Vote: 5-3. Inexpedient to legislate, Senator Rubens for the committee.

SENATOR RUBENS: I have disclosed to this body that I have many of the leanings of an environmental extremist. I believe in the synergistic effects of various compounds that are dealing with the environment. I am very concerned about the build up of chlorinated hydrocarbons in the human bodies and in other places. I feel that we should be extremely strong about the protection of clean air, water and the elements of the human food chain. I started the first recycling center in my area, yet I agree with this committee that the effect of this bill, which is the intent to create a commission or a committee to monitor the potential effect of federal cuts in the environmental programs on the state of New Hampshire is worthwhile. But that there are some very strong existing non-profit and private sector and public sectors' groups who do this on our behalf already and much more effectively than this commission would ever be able to do it. I therefore think that this would be a duplicate of those efforts. There were others who testified on SB 112 for a dose of preventive medicine, but I argued that the dose of preventive medicine already exists as the advocacy groups that we now have. The committee, therefore, recommended this bill as inexpedient to legislate.

SENATOR PIGNATELLI: I don't know just how brief I will be on this one, Mr. President, but I would like to speak. Thank you, Mr. President, for putting this off until later in the day, I appreciate it. It is of no surprise to you that I am going to speak against the motion of inexpedient to legislate. Senator Rubens, I was happy to have your support last year on this bill when it came to the Senate and I was a little surprised to see that over the summer and fall that things may have changed in terms of your view on the environment and the need for the environmental commission. Be that as it may, in this era when more and more responsibility for programs and for the environment, seems to devolve to the state, it seems all the more important that New Hampshire be in a position where we can respond to the potential cuts which some of us

are sure are going to come and plan for those in our states. Now we may want to have additional programs as a result of those cuts, or we may want to look at those cuts as something that might be good for the state, or we may want to say that we think that the program that is being cut is a mistake, but we are not interested in picking up the program, but we are going to look for private industry and private support to continue the program. In a state where we need the environment, and we need a very good environment in this state because of our tourism and also because we like to live in our state that is pristine in terms of the environment, it seems all the more necessary and expedient that we have a comprehensive commission to look at potential cuts. We have different groups now and we have the state that looks at potential cuts, but we don't have a comprehensive group of people that get together and talk about the cuts that are coming down and decide as a group, the environmentalists, the Business and Industry Association, the Municipal Association and the state agency, on how we feel we can deal with those cuts. This commission would do that. Now by my count today, we passed four study committees. Certainly the environment is as important as looking at licensing of propane fuel installers, that may be one, it may not quite be the correct title. But certainly the environment is as important as that. We also passed a bill allowing certain state employees to take paid leave to participate in disaster relief service work. That is an important bill, it allows us to do some planning for our future. An environmental commission bill would allow us to plan on how we are going to deal with cuts that come down from the federal government. Environmental protection is one of the few areas in the federal budget that is discretionary spending. As we look to balance our federal budget, there aren't many areas that they are going to be able to cut and the environment is surely going to be one of them. Isn't it better for us as a state, to look at these cuts and to prepare ourselves and to be proactive, rather than reactive? I think, yes. I urge you to vote no on the pending motion of inexpedient to legislate. Should it fail, I would be proposing an ought to pass motion.

SENATOR RUBENS: A commission meeting two or even several times during a year, can not possibly duplicate the daily ongoing work of the many advocacy groups and activists that we have in the state. It is entirely superfluous to the work that is already being done and will not add to the degree to which we are going to be able to protect New Hampshire's environment. That is why I rise to ask for upholding the motion of inexpedient to legislate.

SENATOR PIGNATELLI: Senator Rubens, in your statement, you just mentioned that you didn't think that a group meeting two or three times during a year would do any good. Is there anything in this legislation that talks about the number of times that the group would meet or have decisions over the phone or write letters?

SENATOR RUBENS: I have served on a large number of study committees during my short 2-1/4 years here and the typical number of times these studies meet are in that range. I again state that the meetings and the work of this commission could not possibly replicate the volume of work being done on a voluntarily basis, by the nonprofit advocacy groups here in this state.

SENATOR PIGNATELLI: Is there anything in this legislation that states that the committee will be meeting two or three times?

SENATOR RUBENS: I am merely extrapolating from the other committees that we have and looking at the amount of available time that members of the Senate will have, and I am also looking at the number of committees that probably will pass this year and the work of those committees that is necessary that is not duplicated anywhere else in order to draft and fashion good legislation for next year.

SENATOR PIGNATELLI: So, am I to take that, that there is nothing in this legislation that states the number of times that this committee would meet to discuss and form solutions to the issues?

SENATOR RUBENS: I am merely predicting.

SENATOR PIGNATELLI: I didn't know that you were clairvoyant.

SENATOR F. KING: I didn't intend to speak on this piece of legislation, I only intended to vote to support its passage. I would like to point out that time and time in my history as a local official, I have had several debates with environmental organizations, and most of which I have lost, I would say, but, I would point out that this bill offers a balance to this commission that, I think, that we should look at. This is going to bring a balance to the environmental organization. They will have two representatives. There will be a member of the Municipal Association that represents the concerns of the community at stake. We certainly, on a daily basis, are concerned with what happens to the environmental areas. There will be a representative to the Business and Industry Association and there are going to be four legislators and the commissioners of two of our departments that deal with this issue. I think that this is a well-balanced commission and will bring a balanced view point, that, I think, in my observational years, has sometimes been missing. So I think that we ought to take a look at this bill and support it with the balance that it brings to a very important subject.

SENATOR K. WHEELER: I just think that there might be just a little confusion, at least in listening to Senator Rubens referring to a study committee. This is, after all, a commission and not a study committee. It doesn't require only senators and representatives to be members of it. It has a more long-term implication and, I think, that it is really quite an important action for us to take. We are not rereferring a bill and we are not sending it to study and we are not forming a study committee.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Larsen.

The following Senators voted Yes: Johnson, Rubens, Patenaude, Roberge, D. Wheeler, Francoeur, Podles, Barnes, Danaïs, Delahunty.

The following Senators voted No: F. King, Gordon, Fraser, McCarley, Whipple, Blaisdell, Squires, Pignatelli, Larsen, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

Yeas: 10 - Nays: 14

The committee report of inexpedient to legislate failed.

Senator Pignatelli moved ought to pass.

Adopted.

Ordered to third reading.

SB 71-FN, clarifying applicable penalties for violations of statutes or ordinances in cases in which the penalty is not specified by statutes and clarifying the right to a jury trial in cases in which a civil penalty is imposed for a violation. Judiciary Committee. Majority report; Vote: 5-2, Ought to pass, Senator Hollingworth for the committee. Minority report; Vote: 2-5, Inexpedient to legislate, Senator D. Wheeler for the committee.

Senator D. Wheeler moved to recommit.

SENATOR D. WHEELER: At this time I will spare the Senate a long and lengthy speech. The problems with this bill are in paragraph I. I have spoken to the majority of the committee members who would be happy to take this bill back and take another look at paragraph I and address the concerns that we have about how broadly paragraph I applies and what the ramifications might be.

SENATOR HOLLINGWORTH: I am going to support the request by the minority to send the bill back to committee, but I would briefly like to speak to that motion. I am not only the sponsor of that legislation, but I was reporting that bill out for the majority of the committee. It seems to me that I am at odds here with... I am not so paranoid that I believe what Reverend Jones said this morning that the "Ides of March are upon us and we need to watch our backs." But I do think that it is a little odd that as the member of the committee that was asked to bring this out for the majority, that I was totally unaware that the motion was going to be to rerefer it to committee. Apparently everybody else in the Republican caucus was aware of that. I have asked the members of the Judiciary Committee and they were unaware of that. So it seems to me, that the fairness that hasn't been extended to the member who was to report this out. I don't want to be a cry baby over this matter, but it does seem that in the future that, that should be something that we should extend as a courtesy to the member who is reporting it out, that that is the request to send it back to committee.

SENATOR BARNES: Senator Hollingworth, I just want you to know that it was not the motion in caucus to do this. This came about after it came onto the floor down here. It was not the motion in the Republican Caucus. I just wanted to correct that.

SENATOR HOLLINGWORTH: Thank you very much. I am sorry that I have offended the president of the Senate, because that was not my intention. But, apparently, other members did know and when I came onto the floor, one member did come forward to me from the committee who did tell me that it was going to be requested to go back to committee and that everybody else seemed to know as Senator Wheeler expressed. He expressed that the majority of the committee knew, and yet, that was not true since Senator Cohen and Senator Pignatelli did not know about that.

Adopted.

SB 71-FN, is recommitted to the Judiciary Committee.

ANNOUNCEMENTS RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this reso-

lution, all titles be the same as adopted and that they be passed at the present time; and that we be in recess for enrolled bill reports and amendments and House messages and introduction and referral of bills, and when we adjourn, we adjourn until Thursday, March 20, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 1, relative to exclusive arrangements with managed care insurers.

SB 20, establishing a committee to study presumptive sentencing.

SB 25, establishing employer immunity from civil liability for good faith disclosure of information regarding current and former employees to prospective employers.

SB 38, relative to certain activities under the workers' compensation law.

SB 40, relative to the payment of wages by employers.

SB 56-FN-L, establishing a method for repurchase of tax-deeded property by the former owner of the property and limiting the recovery by municipalities of proceeds from sales of tax-deeded property.

SB 74-FN, allowing holders of retail wine and combination wine and beverage licenses to sell fortified wines.

SB 79, prohibiting the sale of gift certificates containing an expiration date, relative to unclaimed and abandoned property, and relative to liens on personal property.

SB 81, relative to the administration of estates.

SB 84, revising the uniform simultaneous death act.

SB 85, making technical changes in laws relative to the probate courts.

SB 96, relative to the priority of charges in probate of estates.

SB 101, requiring certain hospitals to file certain forms with the director of charitable trusts.

SB 105, relative to rent collection upon delinquency in payment of common expenses by condominium unit owners.

SB 106, establishing a committee to study the regulation of gas burner technicians and oil burner technicians.

SB 109, relative to the official ballot voting option.

SB 112, establishing a commission on environmental programs.

SB 119, prohibiting a person convicted of any sexual offense, felony, or DWI offense from obtaining a waiver to remove the person's driver's license image from department of safety records.

SB 124, relative to the imposition of fines by the state board of licensure for land surveyors.

SB 125, relative to the right of entry upon lands for surveying.

SB 131, allowing certain state employees to take paid leave to participate in disaster relief service work.

SB 143, authorizing a municipality to change the date for filing for an elderly exemption.

SB 151, relative to final orders on appeals of decisions of zoning boards of adjustment.

SB 179-FN-L, establishing a committee to study creating a New Hampshire local government records management improvement fund.

SB 189-FN-L, authorizing the department of safety to issue resident driver's licenses to certain aliens.

SB 190, exempting insurance companies newly located in New Hampshire from having to make payments to the administration fund during their first 3 years in the state and relative to investments by insurance companies in mutual funds.

SB 198, relative to the standard for granting of variances by zoning boards of adjustment from dimensional requirements.

Senator J. King moved that the Senate be in recess until Thursday, March 20, 1997 at 10:00 a.m.

Adopted.

In recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks concurrence of the Senate:

HB 102-LOCAL, relative to school employee background investigations. (Rep. Spear, Straf 5; Rep. Marcinkowski, Hills 24; Rep. Ham, Graf 4)

HB 136, relative to the division of fire standards and training and the fire standards and training commission. (Rep. Hunter, Hills 7; Rep. David Welch, Rock 18; Rep. Emerton, Hills 7; Rep. Dyer, Hills 8; Sen. Danaïs, Dist 20)

HB 181, prohibiting the sale or distribution of exotic aquatic weeds and increasing certain fees. (Rep. Lamach, Merr 3)

HB 187-FN-A, relative to groundwater monitoring for pesticides. (Rep. Philbrick, Carr 4; Rep. Belanger, Rock 26; Rep. Owen, Merr 6; Rep. L. Pratt, Coos 4; Sen. F. King, Dist 1; Sen. Johnson, Dist 3; Sen. Pignatelli, Dist 13)

HB 190, relative to interstate banking and branching. (Rep. B. Gage, Rock 26)

HB 191, reducing the number of categories of pesticides from 3 to one. (Rep. Babson, Carr 5; Rep. Hall, Hills 20)

HB 241, relative to genetic testing. (Rep. Below, Graf 13; Rep. A. Merrill, Straf 8; Rep. Kurk, Hills 5; Sen. K. Wheeler, Dist 21)

HB 257, offering priority to qualified veterans for participation in training programs funded by the state or federal government. (Rep. R. Krueger, Sull 9; Rep. Fenton, Hills 24)

HB 340, relative to the real estate commission and its licensing and bonding requirements. (Rep. Dokmo, Hills 14)

HB 351-LOCAL, limiting the total of tax deferrals for the elderly and disabled on a particular property to a percentage of its equity value. (Rep. L. Foster, Hills 10)

HB 367-FN-LOCAL, requiring notification to parents when a minor violates the tobacco laws. (Rep. Grassie, Straf 19; Rep. Kaen, Straf 7; Rep. Keans, Straf 16)

SB 372, relative to age requirements for assistant election officials. (Rep. Flanagan, Rock 14)

HB 379-FN, requiring all candidates for speaker of the house or senate president to file certain reports of contributions and to register as political committees. (Rep. J. Bradley, Carr 8)

HB 380-LOCAL, relative to the sale of town-owned property. (Rep. Noyes, Rock 26)

HB 385, relative to reporting and registration requirements for lobbyists and employees of lobbyists. (Rep. A. Merrill, Straf 8; Rep. Horton, Coos 3; Rep. J. Bradley, Carr 8; Rep. D. Cote, Hills 29; Rep. E. Smith, Ches 6; Sen. Russman, Dist 19)

HB 386, relative to the definition of "suitable person" for purposes of licensing a suitable person to carry a loaded pistol or revolver. (Rep. Hunter, Hills 7)

HB 399-LOCAL, changing the name of the optional property tax exemption for the totally and permanently disabled. (Rep. Merritt, Straf 8; Rep. Kenney, Carr 6; Rep. P. Krueger, Merr 7; Sen. K. Wheeler, Dist 21; Sen. Russman, Dist 19)

HB 412, relative to motor carrier safety rules and repealing certain obsolete statutes relating to motor vehicles. (Rep. Malcolm, Rock 22; Rep. J. McCarthy, Rock 24)

HB 415, establishing a nighttime speed limit for OHRVs traveling on the frozen surface of Back Lake in the town of Pittsburg. (Rep. G. Merrill, Coos 1)

HB 416, relative to sentencing for juvenile delinquents. (Rep. Gagnon, Hills 48; Rep. Lozeau, Hills 30; Rep. Chabot, Hills 48; Rep. Morello, Hills 38)

HB 417, relative to ballot certification for political parties and choosing certain party candidates by caucus or convention. (Rep. Weber, Graf 11; Rep. Buckley, Hills 44; Rep. Cobbin, Graf 11)

HB 426, establishing a committee to study the rules and regulations regarding the administration of medications in long-term care facilities. (Rep. L. Foster, Hills 10; Rep. Manning, Ches 9; Rep. MacGillivray, Hills 21)

HB 430, relative to registration of political committees and to political expenditures and contributions. (Rep. Flanagan, Rock 14)

HB 442, requiring insurers to cover certain costs associated with reconstructive surgery after a mastectomy. (Rep. Snyder, Straf 14; Rep. M. Fuller Clark, Rock 36; Rep. Keans, Straf 16; Rep. Belvin, Hills 14; Rep. L. Foster, Hills 10; Sen. K. Wheeler, Dist 21)

HB 447, eliminating the grandfather clause for licensure of professional engineers. (Rep. Alger, Graf 9)

HB 462-FN, requiring the department of safety to inform persons under 21 years of age of the DWI laws. (Rep. Christie, Rock 22; Rep. Dolan, Rock 12; Rep. Knowles, Straf 11; Rep. Dodge, Rock 4; Rep. Simmons, Rock 25; Sen. Barnes, Dist 17; Sen. Hollingworth, Dist 23; Sen. Pignatelli, Dist 13)

HB 468-LOCAL, eliminating a requirement that registers of deeds keep original copies of officers' returns of attachments and writs of execution on file permanently. (Rep. Noyes, Rock 26; Rep. Stickney, Rock 26)

HB 472, establishing the council for children and adolescents with chronic health conditions. (Rep. Nordgren, Graf 10; Rep. Wallner, Merr 24; Rep. C. Moore, Merr 19; Sen. Fraser, Dist 4)

HB 481, relative to financial reporting requirements for political candidates. (Rep. Almy, Graf 14; Rep. Flanagan, Rock 14; Rep. P. Krueger, Merr 7; Rep. Below, Graf 13; Sen. Larsen, Dist 15)

HB 498-FN-A, recognizing the New Hampshire Farm Museum in Milton, New Hampshire as the first official state of New Hampshire farm museum. (Rep. Owen, Merr 6; Rep. Heath, Rock 20)

HB 516-FN, increasing the fuel oil discharge cleanup fund fee. (Rep. Holbrook, Belk 7)

HB 534, establishing a committee to study the New Hampshire highway and bridge infrastructure. (Rep. Boutin, Hills 37; Rep. Dowling, Rock 13; Rep. Calawa, Hills 17; Rep. Cooper, Carr 2; Rep. Avery, Ches 8; Sen. Gordon, Dist 2; Sen. Danaïs, Dist 20; Sen. Cohen, Dist 24; Sen. J. King, Dist 18; Sen. Johnson, Dist 3)

HB 536, requiring certain dam owners to develop emergency action plans, prohibiting the construction of any dam without a permit, and clarifying the process for issuing orders for dam repair. (Rep. Ziegler, Belk 5; Rep. Bartlett, Belk 6; Rep. Dickinson, Carr 2; Rep. Salatiello, Belk 2; Rep. Golden, Belk 5; Sen. Fraser, Dist 4; Sen. Johnson, Dist 3; Sen. Russman, Dist 19)

HB 546, relative to the form of the presidential primary election ballots. (Rep. Flanagan, Rock 14)

HB 566-FN-A-LOCAL, relative to the applicability of the property tax to electric plants and pipelines. (Rep. J. Bradley, Carr 8)

HB 567-FN-LOCAL, relative to administration of vital records. (Rep. Emerton, Hills 7)

HB 575, authorizing the commissioner of the department of environmental services to accept environmental standards developed by the International Standards Organization (ISO) in place of certain permits and certification requirements. (Rep. Aranda, Rock 13; Rep. Musler, Straf 6; Rep. Teschner, Graf 5; Rep. Trelfa, Graf 2)

HB 584-LOCAL, relative to the duties of school nurses. (Rep. O'Hearn, Hills 26; Sen. Squires, Dist 12; Sen. Pignatelli, Dist 13)

HB 586, Changing the expiration date of OHRV registrations. (Rep. Pfaff, Merr 11)

HB 589-FN, removing a common carrier exemption. (Rep. Dickinson, Carr 2; Rep. Cooper, Carr 2)

HB 596-FN, repealing certain laws relative to bribery or intimidation of voters. (Rep. Arndt, Rock 27)

HB 636-LOCAL, relative to facilitating the transfer of contaminated property acquired by a municipality to a buyer eligible to participate in the brownfields program. (Rep. Melcher, Hills 11; Rep. Aranda, Rock 13; Rep. Musler, Straf 6)

HB 648-LOCAL, establishing a local option fee for local or regional transportation improvements. (Rep. M. Fuller Clark, Rock 36; Rep. Burnham, Ches 8; Sen. K. Wheeler, Dist 21)

HB 671-A, establishing a committee to study the organization, structure, and administration of the department of fish and game, and making an appropriation therefor. (Rep. Pfaff, Merr 11; Rep. F. Torr, Straf 12; Rep. G. Chandler, Carr 1; Rep. MacNeil, Graf 7; Rep. Whittemore, Merr 13; Sen. Cohen, Dist 24; Sen. F. King, Dist 1; Sen. Patenaude, Dist 7)

HB 687, establishing an Alan B. Shepard park commission. (Rep. G. Katsakiores, Rock 13; Rep. Langone, Rock 13; Rep. Dowd, Rock 13; Rep. P. Katsakiores, Rock 13; Rep. Gleason, Rock 13; Sen. Russman, Dist 19)

HB 688-FN-A, establishing a committee to study all investigations of the late John C. Fairbanks and other members of the legal profession. (Rep. Cobbin, Graf 11; Rep. Varrell, Rock 9)

SB 690, establishing a long-term care institute. (Rep. Kurk, Hills 5; Rep. Amidon, Hills 9; Rep. Sargent, Hills 3; Sen. Barnes, Dist 17; Sen. J. King, Dist 18)

HB 695, establishing a committee to study the educational requirements of student drivers. (Rep. Gleason, Rock 13; Rep. Christie, Rock 22; Rep. P. Katsakiores, Rock 13; Rep. Pilliod, Belk 3; Rep. Cloutier, Sull 8; Sen. Russman, Dist 19; Sen. J. King, Dist 18; Sen. Podles, Dist 16; Sen. Hollingworth, Dist 23; Sen. Gordon, Dist 2)

HB 698, relative to the oil discharge and disposal cleanup fund, the fuel oil discharge cleanup fund, and the motor oil discharge cleanup fund. (Rep. Holbrook, Belk 7)

HB 704, relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture beverages. (Rep. Coes, Rock 19; Rep. Burnham, Ches 8; Sen. Russman, Dist 19)

HB 708, extending the reporting date for the committee studying the issues surrounding the definition of "facility" for the purposes of eligibility for certain property tax exemptions. (Rep. Whalley, Merr 5)

HB 714, deleting certain duties of the secretary of state relative to the state treasurer's insurance bond and accounts of bonds issued by the state treasurer. (Rep. Flanagan, Rock 14)

HB 718, changing that which constitutes the practice of medicine. (Rep. A. Torr, Straf 12; Rep. M. Fuller Clark, Rock 36; Sen. Hollingworth, Dist 23; Sen. Patenaude, Dist 7)

HB 723-FN-A, establishing a New Hampshire health access corporation, continually appropriating a special fund, and allowing the healthy kids corporation to cover adults. (Rep. R. Foster, Carr 10; Rep. Amidon, Hills 9; Rep. French, Merr 3)

HB 737-FN-LOCAL, establishing a committee to study the New Hampshire retirement system relative to redefining earnable compensation. (Rep. Kurk, Hills 5; Rep. Merritt, Straf 8)

HB 746-FN, relative to fees collected by the insurance department. (Rep. C. Brown, Graf 14; Sen. Blaisdell, Dist 10)

HB 769-FN, relative to unemployment compensation. (Rep. Turner, Belk 7; Sen. Danais, Dist 20)

HB 792-FN-LOCAL, prohibiting trusts and other legal devises from being used to shelter wealth for the purposes of medicaid eligibility. (Rep. Kurk, Hills 5)

HB 797, requiring emergency vehicles to stop for school buses, and requiring the use of both audible and visual emergency signals, in certain circumstances. (Rep. Cooper, Carr 2; Rep. Connolly, Graf 1; Rep. Dickinson, Carr 2; Rep. Lyman, Carr 5; Rep. Asselin, Hills 47; Sen. Johnson, Dist 3)

HB 808, changing the optional term of the school district clerk, moderator, and treasurer. (Rep. Daniels, Hills 13)

CACR 18, RELATING TO: references to the governor in the constitution. **PROVIDING THAT:** all references to the governor in the constitution shall be gender neutral. (Rep. Cushing, Rock 22; Rep. Below, Graf 13; Rep. Hunt, Ches 10; Sen. J. King, Dist 18; Sen. Cohen, Dist 24)

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 102 - CACR 18 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 102-LOCAL, relative to school employee background investigations. (Rep. Spear, Straf 5; Rep. Marcinkowski, Hills 24; Rep. Ham, Graf 4; Education)

HB 136, relative to the division of fire standards and training and the fire standards and training commission. (Rep. Hunter, Hills 7; Rep. David Welch, Rock 18; Rep. Emerton, Hills 7; Rep. Dyer, Hills 8; Sen. Danais, Dist 20; Executive Departments and Administration)

HB 181, prohibiting the sale or distribution of exotic aquatic weeds and increasing certain fees. (Rep. Lamach, Merr 3; Environment)

HB 187-FN-A, relative to groundwater monitoring for pesticides. (Rep. Philbrick, Carr 4; Rep. Belanger, Rock 26; Rep. Owen, Merr 6; Rep. L. Pratt, Coos 4; Sen. F. King, Dist 1; Sen. Johnson, Dist 3; Sen. Pignatelli, Dist 13; Environment)

HB 190, relative to interstate banking and branching. (Rep. B. Gage, Rock 26; Banks)

HB 191, reducing the number of categories of pesticides from 3 to one. (Rep. Babson, Carr 5; Rep. Hall, Hills 20; Environment)

HB 241, relative to genetic testing. (Rep. Below, Graf 13; Rep. A. Merrill, Straf 8; Rep. Kurk, Hills 5; Sen. K. Wheeler, Dist 21; Insurance)

HB 257, offering priority to qualified veterans for participation in training programs funded by the state or federal government. (Rep. R. Krueger, Sull 9; Rep. Fenton, Hills 24; Public Affairs)

HB 340, relative to the real estate commission and its licensing and bonding requirements. (Rep. Dokmo, Hills 14; Executive Departments and Administration)

HB 351-LOCAL, limiting the total of tax deferrals for the elderly and disabled on a particular property to a percentage of its equity value. (Rep. L. Foster, Hills 10; Public Affairs)

HB 367-FN-LOCAL, requiring notification to parents when a minor violates the tobacco laws. (Rep. Grassie, Straf 19; Rep. Kaen, Straf 7; Rep. Keans, Straf 16; Judiciary)

HB 372, relative to age requirements for assistant election officials. (Rep. Flanagan, Rock 14; Public Affairs)

HB 379-FN, requiring all candidates for speaker of the house or senate president to file certain reports of contributions and to register as political committees. (Rep. J. Bradley, Carr 8; Internal Affairs)

HB 380-LOCAL, relative to the sale of town-owned property. (Rep. Noyes, Rock 26; Public Affairs)

HB 385, relative to reporting and registration requirements for lobbyists and employees of lobbyists. (Rep. A. Merrill, Straf 8; Rep. Horton, Coos 3; Rep. J. Bradley, Carr 8; Rep. D. Cote, Hills 29; Rep. E. Smith, Ches 6; Sen. Russman, Dist 19; Internal Affairs)

HB 386, relative to the definition of "suitable person" for purposes of licensing a suitable person to carry a loaded pistol or revolver. (Rep. Hunter, Hills 7; Judiciary)

HB 399-LOCAL, changing the name of the optional property tax exemption for the totally and permanently disabled. (Rep. Merritt, Straf 8; Rep. Kenney, Carr 6; Rep. P. Krueger, Merr 7; Sen. K. Wheeler, Dist 21; Sen. Russman, Dist 19; Public Affairs)

HB 412, relative to motor carrier safety rules and repealing certain obsolete statutes relating to motor vehicles. (Rep. Malcolm, Rock 22; Rep. J. McCarthy, Rock 24; Transportation)

HB 415, establishing a nighttime speed limit for OHRVs traveling on the frozen surface of Back Lake in the town of Pittsburg. (Rep. G. Merrill, Coos 1; Transportation)

HB 416, relative to sentencing for juvenile delinquents. (Rep. Gagnon, Hills 48; Rep. Lozeau, Hills 30; Rep. Chabot, Hills 48; Rep. Morello, Hills 38; Judiciary)

HB 417, relative to ballot certification for political parties and choosing certain party candidates by caucus or convention. (Rep. Weber, Graf 11; Rep. Buckley, Hills 44; Rep. Cobbin, Graf 11; Public Affairs)

HB 426, establishing a committee to study the rules and regulations regarding the administration of medications in long-term care facilities. (Rep. L. Foster, Hills 10; Rep. Manning, Ches 9; Rep. MacGillivray, Hills 21; Public Institutions, Health and Human Services)

HB 430, relative to registration of political committees and to political expenditures and contributions. (Rep. Flanagan, Rock 14; Public Affairs)

HB 442, requiring insurers to cover certain costs associated with reconstructive surgery after a mastectomy. (Rep. Snyder, Straf 14; Rep. M. Fuller Clark, Rock 36; Rep. Keans, Straf 16; Rep. Belvin, Hills 14; Rep. L. Foster, Hills 10; Sen. K. Wheeler, Dist 21; Insurance)

HB 447, eliminating the grandfather clause for licensure of professional engineers. (Rep. Alger, Graf 9; Executive Departments and Administration)

HB 462-FN, requiring the department of safety to inform persons under 21 years of age of the DWI laws. (Rep. Christie, Rock 22; Rep. Dolan, Rock 12; Rep. Knowles, Straf 11; Rep. Dodge, Rock 4; Rep. Simmons, Rock 25; Sen. Barnes, Dist 17; Sen. Hollingworth, Dist 23; Sen. Pignatelli, Dist 13; Transportation)

HB 468-LOCAL, eliminating a requirement that registers of deeds keep original copies of officers' returns of attachments and writs of execution on file permanently. (Rep. Noyes, Rock 26; Rep. Stickney, Rock 26; Judiciary)

HB 472, establishing the council for children and adolescents with chronic health conditions. (Rep. Nordgren, Graf 10; Rep. Wallner, Merr 24; Rep. C. Moore, Merr 19; Sen. Fraser, Dist 4; Public Institutions, Health and Human Services)

HB 481, relative to financial reporting requirements for political candidates. (Rep. Almy, Graf 14; Rep. Flanagan, Rock 14; Rep. P. Krueger, Merr 7; Rep. Below, Graf 13; Sen. Larsen, Dist 15; Public Affairs)

HB 498-FN-A, recognizing the New Hampshire Farm Museum in Milton, New Hampshire as the first official state of New Hampshire farm museum. (Rep. Owen, Merr 6; Rep. Heath, Rock 20; Wildlife and Recreation)

HB 516-FN, increasing the fuel oil discharge cleanup fund fee. (Rep. Holbrook, Belk 7; Environment)

HB 534, establishing a committee to study the New Hampshire highway and bridge infrastructure. (Rep. Boutin, Hills 37; Rep. Dowling, Rock 13; Rep. Calawa, Hills 17; Rep. Cooper, Carr 2; Rep. Avery, Ches 8; Sen. Gordon, Dist 2; Sen. Danais, Dist 20; Sen. Cohen, Dist 24; Sen. J. King, Dist 18; Sen. Johnson, Dist 3; Transportation)

HB 536, requiring certain dam owners to develop emergency action plans, prohibiting the construction of any dam without a permit, and clarifying the process for issuing orders for dam repair. (Rep. Ziegra, Belk 5; Rep. Bartlett, Belk 6; Rep. Dickinson, Carr 2; Rep. Salatiello, Belk 2; Rep. Golden, Belk 5; Sen. Fraser, Dist 4; Sen. Johnson, Dist 3; Sen. Russman, Dist 19; Environment)

HB 546, relative to the form of the presidential primary election ballots. (Rep. Flanagan, Rock 14; Public Affairs)

HB 566-FN-A-LOCAL, relative to the applicability of the property tax to electric plants and pipelines. (Rep. J. Bradley, Carr 8; Ways and Means)

HB 567-FN-LOCAL, relative to administration of vital records. (Rep. Emerton, Hills 7; Public Institutions, Health and Human Services)

HB 575, authorizing the commissioner of the department of environmental services to accept environmental standards developed by the International Standards Organization (ISO) in place of certain permits and certification requirements. (Rep. Aranda, Rock 13; Rep. Musler, Straf 6; Rep. Teschner, Graf 5; Rep. Trelfa, Graf 2; Environment)

HB 584-LOCAL, relative to the duties of school nurses. (Rep. O'Hearn, Hills 26; Sen. Squires, Dist 12; Sen. Pignatelli, Dist 13; Education)

HB 586, Changing the expiration date of OHRV registrations. (Rep. Pfaff, Merr 11; Transportation)

HB 589-FN, removing a common carrier exemption. (Rep. Dickinson, Carr 2; Rep. Cooper, Carr 2; Transportation)

HB 596-FN, repealing certain laws relative to bribery or intimidation of voters. (Rep. Arndt, Rock 27; Public Affairs)

HB 636-LOCAL, relative to facilitating the transfer of contaminated property acquired by a municipality to a buyer eligible to participate in the brownfields program. (Rep. Melcher, Hills 11; Rep. Aranda, Rock 13; Rep. Musler, Straf 6; Ways and Means)

HB 648-LOCAL, establishing a local option fee for local or regional transportation improvements. (Rep. M. Fuller Clark, Rock 36; Rep. Burnham, Ches 8; Sen. K. Wheeler, Dist 21; Transportation)

HB 671-A, establishing a committee to study the organization, structure, and administration of the department of fish and game, and making an appropriation therefor. (Rep. Pfaff, Merr 11; Rep. F. Torr, Straf 12; Rep. G. Chandler, Carr 1; Rep. MacNeil, Graf 7; Rep. Whittemore, Merr 13; Sen. Cohen, Dist 24; Sen. F. King, Dist 1; Sen. Patenaude, Dist 7; Wildlife and Recreation)

HB 687, establishing an Alan B. Shepard park commission. (Rep. G. Katsakiores, Rock 13; Rep. Langone, Rock 13; Rep. Dowd, Rock 13; Rep. P. Katsakiores, Rock 13; Rep. Gleason, Rock 13; Sen. Russman, Dist 19; Wildlife and Recreation)

HB 688-FN-A, establishing a committee to study all investigations of the late John C. Fairbanks and other members of the legal profession. (Rep. Cobbin, Graf 11; Rep. Varrell, Rock 9; Judiciary)

HB 690, establishing a long-term care institute. (Rep. Kurk, Hills 5; Rep. Amidon, Hills 9; Rep. Sargent, Hills 3; Sen. Barnes, Dist 17; Sen. J. King, Dist 18; Public Institutions, Health and Human Services)

HB 695, establishing a committee to study the educational requirements of student drivers. (Rep. Gleason, Rock 13; Rep. Christie, Rock 22; Rep. P. Katsakiores, Rock 13; Rep. Pilliod, Belk 3; Rep. Cloutier, Sull 8; Sen. Russman, Dist 19; Sen. J. King, Dist 18; Sen. Podles, Dist 16; Sen. Hollingworth, Dist 23; Sen. Gordon, Dist 2; Education)

HB 698, relative to the oil discharge and disposal cleanup fund, the fuel oil discharge cleanup fund, and the motor oil discharge cleanup fund. (Rep. Holbrook, Belk 7; Environment)

HB 704, relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture beverages. (Rep. Coes, Rock 19; Rep. Burnham, Ches 8; Sen. Russman, Dist 19; Environment)

HB 708, extending the reporting date for the committee studying the issues surrounding the definition of "facility" for the purposes of eligibility for certain property tax exemptions. (Rep. Whalley, Merr 5; Ways and Means)

HB 714, deleting certain duties of the secretary of state relative to the state treasurer's insurance bond and accounts of bonds issued by the state treasurer. (Rep. Flanagan, Rock 14; Banks)

HB 718, changing that which constitutes the practice of medicine. (Rep. A. Torr, Straf 12; Rep. M. Fuller Clark, Rock 36; Sen. Hollingworth, Dist 23; Sen. Patenaude, Dist 7; Public Institutions, Health and Human Services)

HB 723-FN-A, establishing a New Hampshire health access corporation, continually appropriating a special fund, and allowing the healthy kids corporation to cover adults. (Rep. R. Foster, Carr 10; Rep. Amidon, Hills 9; Rep. French, Merr 3; Public Institutions, Health and Human Services)

HB 737-FN-LOCAL, establishing a committee to study the New Hampshire retirement system relative to redefining earnable compensation. (Rep. Kurk, Hills 5; Rep. Merritt, Straf 8; Insurance)

HB 746-FN, relative to fees collected by the insurance department. (Rep. C. Brown, Graf 14; Sen. Blaisdell, Dist 10; Insurance)

HB 769-FN, relative to unemployment compensation. (Rep. Turner, Belk 7; Sen. Danaïs, Dist 20; Insurance)

HB 792-FN-LOCAL, prohibiting trusts and other legal devices from being used to shelter wealth for the purposes of medicaid eligibility. (Rep. Kurk, Hills 5; Banks)

HB 797, requiring emergency vehicles to stop for school buses, and requiring the use of both audible and visual emergency signals, in certain circumstances. (Rep. Cooper, Carr 2; Rep. Connolly, Graf 1; Rep. Dickinson, Carr 2; Rep. Lyman, Carr 5; Rep. Asselin, Hills 47; Sen. Johnson, Dist 3; Transportation)

HB 808, changing the optional term of the school district clerk, moderator, and treasurer. (Rep. Daniels, Hills 13; Public Affairs)

CACR 18, RELATING TO: references to the governor in the constitution. **PROVIDING THAT:** all references to the governor in the constitution shall be gender neutral. (Rep. Cushing, Rock 22; Rep. Below, Graf 13; Rep. Hunt, Ches 10; Sen. J. King, Dist 18; Sen. Cohen, Dist 24; Internal Affairs)

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks concurrence of the Senate:

HB 121, relative to quality review for accountancy and requiring the board of accounting to adopt administrative rules. (Rep. Dodge, Rock 4; Rep. M. Brown, Merr 10)

HB 169, prohibiting former state legislators from serving as lobbyists for 2 years after leaving the legislature. (Rep. Carson, Rock 29; Rep. Mittelman, Hills 37)

HB 243, relative to criminal penalties and license revocation following a conviction for shooting and wounding or killing a human being while hunting. (Rep. L'Heureux, Hills 18; Rep. H. Coulombe, Coos 7; Rep. D. Wheeler, Dist 11)

HB 255, establishing a committee to study access to dental care for low-income, uninsured, and underinsured persons. (Rep. French, Merr 3; Rep. Manning, Ches 9; Rep. Copenhaver, Graf 10; Rep. Case, Rock 2; Sen. K. Wheeler, Dist 21; Sen. Squires, Dist 12)

HB 258-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies. (Rep. Hunt, Ches 10; Rep. Adams, Merr 9)

HB 261, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations (Blue Cross/Blue Shield). (Rep. Hunt, Ches 10)

HB 297, relative to the cutting of vegetation by utilities on private property. (Rep. Owen, Merr 6)

HB 324, relative to the qualifications of bank examiners. (Rep. Dodge, Rock 4; Rep. Coes, Rock 19; Rep. M. Brown, Merr 10)

HB 336, clarifying certain definitions relating to dams. (Rep. Ziegra, Belk 5; Rep. Bartlett, Belk 6; Rep. Salatiello, Belk 2; Rep. Golden, Belk 5; Rep. Dickinson, Carr 2; Sen. Fraser, Dist 4; Sen. Russman, Dist 19; Sen. Johnson, Dist 3)

HB 342, relative to the payment of recording fees for mortgage discharges and relative to notification of the discharge to the payor of the final payment in satisfaction of the mortgage. (Rep. Guay, Coos 6; Sen. Fraser, Dist 4)

HB 375, relative to the statement which must be signed by applicants for notary public or justice of the peace. (Rep. Holden, Hills 14; Rep. Dokmo, Hills)

HB 397, establishing a house study committee to examine the adoption of articles 41, 72-a and 73-a of the second part of the New Hampshire constitution. (Rep. Hemon, Straf 11; Rep. Weber, Graf 11; Rep. P. Taylor, Hills 34; Rep. McCann, Straf 11; Rep. Cobbin, Graf 11)

HB 431, Relative to the appointment of attorneys and guardians ad litem, and eliminating certain de novo hearings under certain laws related to child protection. (Rep. J. Brown, Straf 17)

HB 433, relative to discharge from New Hampshire hospital. (Rep. R. Foster, Carr 10; Rep. Haettenschwiller, Hills 29; Sen. Russman, Dist 19)

HB 448, relative to the trust fund for the prevention of child abuse and neglect. (Rep. Nordgren, Graf 10; Rep. Wallner, Merr 24; Rep. C. Moore, Merr 19; Sen. Pignatelli, Dist 13; Sen. Podles, Dist 16; Sen. Cohen, Dist 24)

HB 450, relative to accessing directory information as defined by the Family Educational Rights and Privacy Act. (Rep. Champagne, Ches 19)

HB 454, relative to food service establishments. (Rep. Haettenschwiller, Hills 29)

HB 486, relative to a study of a certain portion of Route 3A. (Rep. D'Allesandro, Hills 46; Transportation)

HB 523, relative to the appointment of guardians ad litem. (Rep. Keans, Straf 16; Sen. Podles, Dist 16)

HB 585, relative to prohibiting littering, as enforced by the fish and game department. (Rep. Abbott, Rock 19)

HB 652, establishing a committee to study certification of police and fire dispatchers. (Rep. Pepino, Hills 40; Rep. Buckley, Hills 44)

HB 706, establishing a commission on animal damage control to review the fish and game laws relating to damage by game birds and game. (Rep. L'Heureux, Hills 18; Rep. Melcher, Hills 11)

HB 722-FN, opting the state out of a provision of federal law relating to benefits for persons convicted of drug-related offenses. (Rep. Manning, Ches 9; Rep. Ferguson, Hills 13; Rep. Wallner, Merr 24; Rep. Amidon, Hills 9)

CACR 1, RELATING TO: a 4-year term for the office of governor.

PROVIDING THAT: the governor shall be elected every 4 years beginning in the year 2002. (Rep. Keans, Straf 16; Rep. Clay, Hills 4; Rep. Metzger, Ches 13)

CACR 22, RELATING TO: changing the minimum age requirement for state senator from 30 to 25. **PROVIDING THAT:** persons at least 25 years of age shall be eligible to be elected to the state senate. (Rep. Hilliard, Straf 14; Rep. Simmons, Rock 25; Rep. Rollo, Straf 10; Rep. K. Clemons, Hills 29; Rep. Cushing, Rock 22; Sen. Cohen, Dist 24)

HCR 2, A RESOLUTION urging all school districts in the state of New Hampshire to implement peer mediation programs. (Rep. Copenhaver, Graf 10; Rep. Yeaton, Merr 10; Rep. McGuirk, Ches 1; Rep. Spear, Straf 5; Rep. Hansen, Hills 2; Rep. Fraser, Merr 21; Sen. Gordon, Dist 2; Sen. McCarley, Dist 6)

HCR 10, A RESOLUTION urging recognition of the contributions made by the Irish potato famine immigrants and observation of the 150th anniversary of the Great Hunger. (Rep. Cushing, Rock 22; Rep. J. Kelley, Rock 22; Rep. O'Keefe, Rock 21; Rep. Weatherspoon, Rock 20; Rep. Dwyer, Hills 43)

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 121-HCR 10 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 121, relative to quality review for accountancy and requiring the board of accounting to adopt administrative rules. (Rep. Dodge, Rock 4; Rep. M. Brown, Merr 10; Executive Departments and Administration)

HB 169, prohibiting former state legislators from serving as lobbyists for 2 years after leaving the legislature. (Rep. Carson, Rock 29; Rep. Mittelman, Hills 37; Internal Affairs)

HB 243, relative to criminal penalties and license revocation following a conviction for shooting and wounding or killing a human being while hunting. (Rep. L'Heureux, Hills 18; Rep. H. Coulombe, Coos 7; Rep. D. Wheeler, Dist 11; Judiciary)

HB 255, establishing a committee to study access to dental care for low-income, uninsured, and underinsured persons. (Rep. French, Merr 3; Rep. Manning, Ches 9; Rep. Copenhaver, Graf 10; Rep. Case, Rock 2; Sen. K. Wheeler, Dist 21; Sen. Squires, Dist 12; Public Institutions, Health and Human Services)

HB 258-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies. (Rep. Hunt, Ches 10; Rep. Adams, Merr 9; Banks)

HB 261, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations (Blue Cross/Blue Shield). (Rep. Hunt, Ches 10; Insurance)

HB 297, relative to the cutting of vegetation by utilities on private property. (Rep. Owen, Merr 6; Environment)

HB 324, relative to the qualifications of bank examiners. (Rep. Dodge, Rock 4; Rep. Coes, Rock 19; Rep. M. Brown, Merr 10; Banks)

HB 336, clarifying certain definitions relating to dams. (Rep. Ziegra, Belk 5; Rep. Bartlett, Belk 6; Rep. Salatiello, Belk 2; Rep. Golden, Belk 5; Rep. Dickinson, Carr 2; Sen. Fraser, Dist 4; Sen. Russman, Dist 19; Sen. Johnson, Dist 3; Environment)

HB 342, relative to the payment of recording fees for mortgage discharges and relative to notification of the discharge to the payor of the final payment in satisfaction of the mortgage. (Rep. Guay, Coos 6; Sen. Fraser, Dist 4; Banks)

HB 375, relative to the statement which must be signed by applicants for notary public or justice of the peace. (Rep. Holden, Hills 14; Rep. Dokmo, Hills 14; Executive Departments and Administration)

HB 397, establishing a house study committee to examine the adoption of articles 41, 72-a and 73-a of the second part of the New Hampshire constitution. (Rep. Hemon, Straf 11; Rep. Weber, Graf 11; Rep. P. Taylor, Hills 34; Rep. McCann, Straf 11; Rep. Cobbin, Graf 11; Internal Affairs)

HB 431, relative to the appointment of attorneys and guardians ad litem, and eliminating certain de novo hearings under certain laws related to child protection. (Rep. J. Brown, Straf 17; Judiciary)

HB 433, relative to discharge from New Hampshire hospital. (Rep. R. Foster, Carr 10; Rep. Haettenschwiler, Hills 29; Sen. Russman, Dist 19; Public Institutions, Health and Human Services)

HB 448, relative to the trust fund for the prevention of child abuse and neglect. (Rep. Nordgren, Graf 10; Rep. Wallner, Merr 24; Rep. C. Moore, Merr 19; Sen. Pignatelli, Dist 13; Sen. Podles, Dist 16; Sen. Cohen, Dist 24; Public Institutions, Health and Human Services)

HB 450, relative to accessing directory information as defined by the Family Educational Rights and Privacy Act. (Rep. Champagne, Ches 19; Education)

HB 454, relative to food service establishments. (Rep. Haettenschwiler, Hills 29; Public Institutions, Health and Human Services)

HB 486, relative to a study of a certain portion of Route 3A. (Rep. D'Allesandro, Hills 46; Transportation)

HB 523, relative to the appointment of guardians ad litem. (Rep. Keans, Straf 16; Sen. Podles, Dist 16; Judiciary)

HB 585, relative to prohibiting littering, as enforced by the fish and game department. (Rep. Abbott, Rock 19; Wildlife and Recreation)

HB 652, establishing a committee to study certification of police and fire dispatchers. (Rep. Pepino, Hills 40; Rep. Buckley, Hills 44; Transportation)

HB 706, establishing a commission on animal damage control to review the fish and game laws relating to damage by game birds and game. (Rep. L'Heureux, Hills 18; Rep. Melcher, Hills 11; Wildlife and Recreation)

HB 722-FN, opting the state out of a provision of federal law relating to benefits for persons convicted of drug-related offenses. (Rep. Manning, Ches 9; Rep. Ferguson, Hills 13; Rep. Wallner, Merr 24; Rep. Amidon, Hills 9; Judiciary)

CACR 1, RELATING TO: a 4-year term for the office of governor.

PROVIDING THAT: the governor shall be elected every 4 years beginning in the year 2002. (Rep. Keans, Straf 16; Rep. Clay, Hills 4; Rep. Metzger, Ches 13; Internal Affairs)

CACR 22, RELATING TO: changing the minimum age requirement for state senator from 30 to 25. **PROVIDING THAT:** persons at least 25 years of age shall be eligible to be elected to the state senate. (Rep. Hilliard, Straf 14; Rep. Simmons, Rock 25; Rep. Rollo, Straf 10; Rep. K. Clemons, Hills 29; Rep. Cushing, Rock 22; Sen. Cohen, Dist 24; Internal Affairs)

HCR 2, A RESOLUTION urging all school districts in the state of New Hampshire to implement peer mediation programs. (Rep. Copenhaver, Graf 10; Rep. Yeaton, Merr 10; Rep. McGuirk, Ches 1; Rep. Spear, Straf 5; Rep. Hansen, Hills 2; Rep. Fraser, Merr 21; Sen. Gordon, Dist 2; Sen. McCarley, Dist 6; Education)

HCR 10, A RESOLUTION urging recognition of the contributions made by the Irish potato famine immigrants and observation of the 150th anniversary of the Great Hunger. (Rep. Cushing, Rock 22; Rep. J. Kelley, Rock 22; Rep. O'Keefe, Rock 21; Rep. Weatherspoon, Rock 20; Rep. Dwyer, Hills 43; Public Affairs)

LATE SESSION

Senator Barnes moved that the business of the day being completed, that the Senate now adjourn until Thursday, March 20, 1997 at 10 a.m.

Adopted.

Adjournment.

March 20, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

A minister friend of mine named Fred has a birthday today. This morning all across New Hampshire thousands of your youngest constituents, and many not so young, watched him, Mister Rogers, on television as he gently reminded each of them of their utter uniqueness and importance and unconditional value. We all need to be reminded of those things. Even you need to be reminded of them. So let the way you speak to one another today, let the way you speak about one another today, and let the way you vote today, be your birthday present to Mister Rogers, who would remind you that you do make each day special just by your being you. If you do give him that gift, you will have given to us, the residents of this wonderful state, a real gift too. So what do you say?

Lord of both make believe and reality, give to each of us both the desire and the capacity to treat one another not as adversaries whose opinions we seek to squelch, but rather as neighbors whose dignity, value and needs, we seek to nurture, for that is what will make us all good politicians.

Amen.

Senator Roberge led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Senator Danaïs is excused for the day.

COMMITTEE REPORTS

SB 78-FN-L, changing the school foundation aid distribution formula. Education Committee. Vote: 4-3. Inexpedient to legislate, Senator Francoeur for the committee.

Senator Barnes moved to have **SB 78-FN-L**, changing the school foundation aid distribution formula, laid on the table.

Adopted.

LAID ON THE TABLE

SB 78-FN-L, changing the school foundation aid distribution formula.

SB 174-FN-A-L, requiring the state to fully fund the Augenblick formula by FY 1999. Education Committee. Vote: 4-3. Inexpedient to legislate, Senator Rubens for the committee.

Senator Barnes moved to have **SB 174-FN-A-L**, requiring the state to fully fund the Augenblick formula by FY 1999, laid on the table.

Adopted.

LAID ON THE TABLE

SB 174-FN-A-L, requiring the state to fully fund the Augenblick formula by FY 1999.

SB 203-FN-L, adding county correctional facilities to the provisions relating to incarcerated educationally disabled children. Education Committee. Vote: 7-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0753s

04/09

Amendment to SB 203-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT deleting the state prison and adding county correctional facilities to the provisions relating to incarcerated educationally disabled children.

Amend the bill by replacing all after the enacting clause with the following:

1 County Correctional Facilities Added. Amend RSA 186-C:19-a to read as follows:

186-C:19-a Educationally Disabled Children at the Youth Development Center, ~~the State Prison~~ **County Correctional Facilities**, and the Youth Services Center.

I. For an educationally disabled child at the youth development center ~~or~~, ~~the state prison~~ **county correctional facilities**, or who is placed at the youth services center maintained by the department of youth development services while awaiting disposition of the court following arraignment pursuant to RSA 169-B:13, the school district responsible for the development of an individualized education plan shall be as follows:

(a) If such child is in the legal custody of the parent, the school district in which the child's parent resides shall be responsible.

(b) If such child is not in the legal custody of the parent or if the parent resides outside the state, the school district in which the child most recently resided other than in a state institution, home for children or health care facility as defined in RSA 193:27 shall be responsible.

(c) For the purposes of this section a parent shall not have legal custody if legal custody has been awarded to some other person or agency, even if that parent retains residual parental rights. An award of legal custody by a court of competent jurisdiction, in this state or in any other state, shall determine legal custody under this section.

II. The school district liability for educational expenses for an educationally disabled child in the youth development center ~~or the state prison~~, **county correctional facilities**, or who is placed in the youth services center while awaiting disposition of the court following arraignment

ment pursuant to RSA 169-B:13, shall not exceed the state average elementary cost per pupil, as determined by the state board of education for the preceding school year.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill deletes the state prison and adds county correctional facilities to the provisions relating to incarcerated educationally disabled children.

This bill is the result of the study committee established by 1996, 273.

SENATOR GORDON: This bill is a result of a legislative study committee from last summer. The bill clarifies the costs of special education for incarcerated people in county facilities, shall be borne by the school district from which the student came, and not from the school district that the correctional facility is located in. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 205-FN-L, establishing a special school district to provide special education for eligible inmates in the state prison system. Education Committee. Vote: 7-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0754s

04/09

Amendment to SB 205-FN-LOCAL

Amend the bill by deleting section 4 and renumbering original sections 5-7 to read as 4-6, respectively.

SENATOR GORDON: This bill will establish a special school district within the Department of Corrections to provide special education to inmates in the state prison system. This special district will make it easier for the state to secure federal funds for this program. Because a centralized entity is established to deal with the program, this school district will help to ensure that those inmates who are in need of special education while they are incarcerated will be able to receive those services. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 214-FN, requiring marine science courses to be offered at Hampton Beach state park. Education Committee. Vote: 4-3. Inexpedient to legislate, Senator Francoeur for the committee.

Senator Barnes moved to have **SB 214-FN**, requiring marine science courses to be offered at Hampton Beach state park, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 214-FN, requiring marine science courses to be offered at Hampton Beach state park.

SB 150, relative to the liability of owners of dams for certain dam management practices. Environment Committee. Vote: 7-0. Inexpedient to legislate, Senator F. King for the committee.

SENATOR F. KING: Senate Bill 150, a bill that I introduced, proposed to make a dam owner liable for flood damages, if the owner modifies prior operational practices. It was introduced in an effort to address concerns communities along the Connecticut and Androscoggin Rivers have in regard to downstream flooding. The attorney general's office expressed concerns about the implications that this bill would have with the state owned dams. Also, a lot of the modifications that might incur are involved with federal energy regulatory commission relicensing of these facilities. It is impossible for the state to control most of the first regulations. I tried to work out something with the attorney general's office to address the concerns of my communities and we just simply could not reach an agreement other than to send some sort of resolution to congress that I feel is unimportant, does not accomplish anything. So as a result of that, the bill is being found inexpedient to legislate. I think that some good came from the bill's introduction. I have to have that to justify the reason for doing it, I guess. The DES is now a lot more cognizant of the concerns of the communities from the upstream dam impoundments. They are going to be much more involved in the relicensing process as that goes forward and perhaps we have accomplished something. The committee found it inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 172, extending the reporting date for the committee studying the issue of the use and disposal of sludge or septage. Environment Committee. Vote: 5-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 172 extends the reporting date of the committee studying the issue of the use and disposal of sludge or septage until November 1, of this year. The committee created last year spent a tremendous amount of time examining a variety of treatment and alternative disposal methods, but they feel that there is much more to learn before a policy decision can be made on this issue. The Environment Committee unanimously recommends ought to pass on HB 172. Thank you.

Adopted.

Ordered to third reading.

HB 307, relative to the adoption of local river corridor management plans by planning boards. Environment Committee. Vote: 3-1. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 307 allows a local planning board or governing body in the absence of a planning board, to adopt the local river corridor management plans. This is presently the practice for the adoption of the master plans. Currently, a river corridor plan must be approved by the municipal legislative body. Since these plans are essentially goals and are not regulatory in nature, it is preferable to have the municipal planning board adopt these plans because they are well versed in these areas. Local legislative bodies may implement any of these recommendations through the ordinance procedure should they choose to do so. The Environment Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 3, relative to small employer and individual insurance. Insurance Committee. Vote: 7-0. Rereferred to committee, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This bill would have changed the calculation for the computation of premium rates under the small employer and individual insurance laws. The bill also would have defined the term "pre-existing condition" for the purpose of small employer and individual insurance. The committee felt that these issues needed to be looked at some more and recommended that the Senate rerefer this bill to committee.

Committee report of rereferred is adopted.

SB 53-FN, relative to payment by the retirement system of certain medical benefits for group II members and for certain permanent firemen on disability retirement. Insurance Committee. Vote: 7-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the committee, the Senate Insurance Committee this morning will be reporting out three retirement bills, SB 53, SB 54 and SB 68 with the idea that the policy on these bills was okayed by the Senate Insurance Committee and I will read each one of them as we go along here. Senate Bill 53, the one that we are addressing right now, in 1988, the legislature created a health insurance premium subsidiary program for retired police officers and firefighters in our state. At that time, we set aside money to assist in paying these premiums for the existing members of the system in their retirement. It was also understood at that time, that we would expand that subsidiary for new police officers and firefighters hired after 1988 only when funds in the special account were available for this purpose. Testimony from everyone in the committee was that the funds are available in the special account to provide this protection for those people hired up to June 30, 1990. They also testified that passage of this bill would not jeopardize a COLA for this year and the special account will still have funds remaining for the future COLA's. Discussion in the Insurance Committee was that we wanted to make sure that the integrity of the retirement system is upheld, that is why that we recommend, if you so desire, to pass this bill, to have it referred to Senate Finance.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 54-FN, relative to gainful occupation of disability beneficiaries in the New Hampshire retirement system. Insurance Committee. Vote: 7-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Senate Bill 54, currently members of the New Hampshire Retirement System who are retired on disability can have earnings to make up the difference between their disability retirement benefit and the amount that their former position currently paid. Senate Bill 54 simply provides an optional manner of calculating the difference of having the consumer price index applied to their average final compensation before any gainful occupation earnings offset is applied. This will allow people who are physically unable to return to duty the possibility of keeping their total income constant and not being impoverished by inflation. Again, Senate Finance, we request that this bill be sent to Senate Finance. We have some material coming over from the retirement system and we would like to look at that. We ask for your consideration.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 65-FN-L, relative to pooled risk groups for insurance purposes. Insurance Committee. Vote: 7-0. Inexpedient to legislate, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This bill would have required towns to engage in open bidding when entering into or renewing agreements with pooled risk management programs. The local officials can choose to put things out to bid at this time; therefore, the bill is unnecessary. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 68-FN-L, providing health care coverage for the spouse and dependents of any group I or group II retirement system member who is killed in the line of duty. Insurance Committee. Vote: 5-2. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: A sad time for us a few years ago, members of the Senate, when two state troopers died in the line of duty and the legislature soon passed special legislation providing health care insurance benefits of the surviving spouses. However, until that bill passed, those surviving spouses were left with great anxiety about their continued health care coverage. This bill is an attempt to ensure that other surviving spouses will not have to go through that anxiety. God forbid that it ever happens, to tell you the truth. Senate Bill 68 will provide health insurance coverage for the surviving spouse of any member of the retirement system killed in the line of duty. Since 1989, there have only been five such incidents. Two of them police officers and one firefighter and two teachers; therefore, the cost to the state for this protection is inconsequential, and why the peace of mind and security that it provides to survivors is incalculable. We ask again, that you send this down to Finance so that we can make sure that the protection of the Retirement System is protected. Thank you very much.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 118, prohibiting lifetime caps on health insurance coverage. Insurance Committee. Vote: 7-0. Rereferred to committee, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: Senate Bill 118 would prohibit health insurers from limiting their total liability for healthcare coverage to a specified level over a set time frame or over an insurer's lifetime. In other words, to have lifetime caps on healthcare coverage. The impetus for filing this legislation was concern expressed by constituents over the reduction of Blue Cross Blue Shield's lifetime cap from one million dollars to two hundred and fifty thousand dollars. The Insurance Committee feels that this issue needs further review and recommends that the Senate rerefer this bill to the Insurance Committee.

Committee report of referred is adopted.

SB 126, prohibiting the state employee health plan from paying for abortions. Insurance Committee. Vote: 4-3. Inexpedient to legislate, Senator Blaisdell for the committee.

Recess.

Out of recess.

Senator Barnes moved to have **SB 126**, prohibiting the state employee health plan from paying for abortions, as a Special Order for April 1, 1997 at 10:00 a.m.

Adopted.

SPECIAL ORDER

SB 126, prohibiting the state employee health plan from paying for abortions.

SB 172, making various changes to the workers' compensation law. Insurance Committee. Vote: 5-2. Ought to pass with amendment, Senator Fraser for the committee.

1997-0716s

01/08

Amendment to SB 172

Amend the bill by replacing section 2 with the following:

2 Civil Penalty Added. Amend RSA 281-A:23-b to read as follows:

281-A:23-b Alternative Work Opportunities. All employers with 5 or more employees shall develop *and provide* temporary alternative work opportunities for injured employees. *If the employee fails to accept temporary alternative work, the employer or the employer's insurance carrier may petition the commissioner pursuant to RSA 281-A:48, to reduce or end compensation.* The commissioner shall adopt rules under RSA 541-A relative to the administration of this section.

Amend the bill by replacing section 6 with the following:

6 Hearings and Awards. Amend RSA 281-A:43, I(b) to read as follows:

(b) An appeal from a decision of the commissioner or the commissioner's authorized representative shall be taken to the board no later than 30 days from the date of such decision. Upon the filing of an appeal the board shall, within 6 ~~weeks~~ *months* hold a full hearing on the appeal; but, in no case shall such an appeal suspend the operation of an award unless the hearing officer from which the appeal was taken shall so order. The board shall give notice of the scheduled hearing at least 14 days prior to the date for which it is scheduled. Continuances of any hearing are discouraged; however, should a continuance be necessary, the parties requesting such continuance shall file with the board a written petition for such continuance at least 7 days prior to the hearing. Failure to file such a petition shall bar any right to a continuance. Thereafter, a continuance may only be granted upon the commissioner's finding that a compelling need exists so as to require a continuance. The board shall make its decision or order setting forth its findings of fact and rulings of law within 30 days of the hearing.

AMENDED ANALYSIS

This bill:

1. Adds a penalty for doing business with an unlicensed third party administrator.

2. Requires employers to provide temporary alternative work opportunities for injured employees in accordance with RSA 281-A:23-b.

3. Deletes the medical and rehabilitation fee schedule and replaces it with a requirement for payment for reasonable value of services.

4. Declares that employers who reinstate an employee shall not be reimbursed from the fund established under RSA 281-A:54 should such employee become injured.

5. Changes the time frame when an appeal must be heard by the workers' compensation appeals board.

Senator Fraser moved to have **SB 172**, making various changes to the workers' compensation law, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 172, making various changes to the workers' compensation law.

SB 185-FN, relative to permanent, part-time state employees. Internal Affairs Committee. Vote: 7-0. Inexpedient to legislate, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, last week I had an MRI on my head and they called me up yesterday and told me that there was nothing there, so I am going report this bill out. Although the Senate Internal Affairs Committee, in voting this out as inexpedient to legislate, it is not because we believe that the bill is without merit. This is Senator Larsen's bill. Rather, there was testimony at the hearing by both the state and the SEA, the matter should be reviewed as an appropriate subject for bargaining; therefore, we direct the state to pursue modification of the existing bargaining units to accommodate part-time employees in order to allow good faith negotiations to proceed. We ask that you support the motion of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 187, relative to the penalties for certain court defaults. Judiciary Committee. Vote: 7-0.

Ought to pass with amendment, Senator Francoeur for the committee.

1997-0737s

03/02

Amendment to SB 187

Amend the bill by replacing all after section 1 with the following:

2 New Paragraph; Exemption for Violations of Municipal Ordinances. Amend RSA 263:56-a by inserting after paragraph VII the following new paragraph:

VIII. The provisions of this section shall not apply to defaults or nonpayment's in connection with a violation of a municipal ordinance.

3 Effective Date. This act shall take effect January 1, 1998.

SENATOR FRANCOEUR: Senate Bill 187 allows the director the Division of Motor Vehicles to suspend or revoke a defendant's driver's license or motor vehicle registration if that defendant fails to pay a court ordered fine or fails to otherwise comply with orders of the court. As of now, this power only extends to motor vehicle cases. This bill as amended, would extend this penalty to any related court cases, except those dealing with municipal ordinance fines. It would be an additional incentive for guilty defendants to not default on court ordered fines if they stood the chance of losing their driving privilege and motor vehicle plates. This would mean less lost revenue from unpaid fines. Currently, several million dollars in fines go unpaid every year. The committee voted unanimously that the bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 192-FN-L, relative to child support, custodial rights, and visitation. Judiciary Committee. Vote: 8-0. Rereferred to committee, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 192 is intended to deal with the problems faced by many divorced parents, specifically involving child support, custodial rights and visitation rights. The bill would have addressed these problems by amending RSA 458 to change the child support formula methods of calculating parental expenses and the process of modifying custody and visitation. The testimony given to the committee by several parents, demonstrated that there are real problems for many divorced parents under the current system; however, other testimony pointed out weaknesses in this bill that need to be addressed before it is acceptable for passage. Therefore, the Judiciary Committee votes to rerefer SB 192 to committee.

Committee report of refer is adopted.

SB 200, relative to certain employer deductions for administrative costs for withholding obligor child support payments. Judiciary Committee. Vote: 8-0. Inexpedient to legislate, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This bill would raise the reimbursement of the administrative cost for withholding child support payments from one to three dollars for employers of fewer than ten employees. For small businesses who do not automate their payroll accounts, there is a substantial cost greater than the one dollar in preparing the withholdings; however, the committee decided that this would create inequities. Large businesses would not get the same benefits as small businesses. This bill does not make a distinction between small businesses who do automate their payroll and those who don't, therefore, this bill was voted inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 211-FN, making technical changes under the motor vehicle financial responsibility laws, insurance fraud laws, and laws regulating managing general agents, reinsurance intermediaries, and third party administrators. Insurance Committee. Vote: 5-2. Ought to pass, Senator Squires for the committee.

SENATOR SQUIRES: Mr. President, members of the Senate, this bill changes the financial responsibility law requiring auto insurers to pay medical claims even if the person has their own medical coverage. The bill also allows the department to implement rules regarding licensure of managing general agents. These agents manage significant amounts for insurers and regulation by the department as necessary. The bill also returns to statute, language regarding assigned risks and the New Hampshire Automobile Insurance Plan that was erroneously deleted previously. Further, the bill extends the immunity provisions when reporting insurance fraud to public officials and insurance companies. Finally, this bill requires insurers to provide the department with anti-fraud plans. The committee recommends this bill as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

Senator Francoeur in opposition to SB 211.

HB 120-FN, amending certain license fees and making various technical changes to the fish and game laws. Wildlife and Recreation Committee. Vote: 5-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 120-FN is a housekeeping measure for the Fish and Game Department. During the past two years the Fish and Game Department and Commission have reviewed more than one hundred types of permits that they issue in attempt to make things more in-line with surrounding states as well as to reduce paperwork. The Wildlife and Recreation Committee voted unanimously this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 267, prohibiting petroleum-powered motors on Little Dan Hole Pond in the town of Ossipee. Wildlife and Recreation Committee. Vote: 5-0. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: House Bill 267 prohibits the use of petroleum-powered motors on Little Dan Hole Pond in the town of Ossipee in an effort to protect the water quality and ecosystem of the pond. Little Dan Hole Pond is a 70 acre body of water in Ossipee which until recently, served as the drinking water supply for the town. With the passage of the Clean Water Act, the town was no longer able to use this open body of water and switched to drilled wells instead. From the time that this pond became the drinking water source for Ossipee in 1904, until August of last year, the use of petroleum-powered boats was strictly prohibited. Residents are concerned that the use of such boats would destroy the ecosystem of the water bed and are interested in having the pond protected. House Bill 267 would serve to protect Little Dan Hole Pond by prohibiting the use of these boats. No one testified in opposition to this bill and the Wildlife and Recreation Committee recommends unanimously, the passage of this bill.

Adopted.

Ordered to third reading.

HB 403, prohibiting the use of trotlines to take fish. Wildlife and Recreation Committee. Vote: 5-0. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 403 prohibiting the use of trotlines to take fish on bodies of water in New Hampshire. Now for those who may not know what a trotline is, it is a line that is stretched between two objects and is immersed in the water. Other lines with hooks are attached to the trotline and also dropped into the lake or pond. A fisherman will then leave their lines until later in the day or overnight, then come back to their lines and retrieve any fish that have been caught. The Fish and Game Department that requested HB 403 find this unsporting and would like to see this practice stopped in New Hampshire. We all know how important it is to keep fishing and hunting sportsmen like in New Hampshire. The Wildlife and Recreation Committee unanimously recommend HB 403 as ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 681, relative to penalties for certain violations of fish and game laws and granting rulemaking authority to the executive director relative to registration agent fees for wild turkey permits. Wildlife and Recreation Committee. Vote: 5-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUE: House Bill 681, that was a request from the Fish and Game Department, brings the statutes governing moose and wild turkey hunting into line with other hunting statutes. When moose and wild turkey hunting were first permitted in New Hampshire, they were heavily protected because there were limited population of these animals. New Hampshire now has a healthy population with both moose and wild turkey. The Fish and Game Department would like to see these statutes made similar to those statutes governing other forms of hunting. The Wildlife and Recreation Committee unanimously recommend passage of HB 681.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

Senator J. King moved to have **SB 194** off of the table.

Senator J. King withdrew his request.

ANNOUNCEMENTS

RESOLUTION

Senator Russman moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that we be in recess for Enrolled Bill Reports and amendments and House messages and introduction and referral of bills, and when we adjourn, we adjourn until Thursday, March 27, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

HB 120-FN, amending certain license fees and making various technical changes to the fish and game laws.

HB 172, extending the reporting date for the committee studying the issue of the use and disposal of sludge or septage.

SB 187, relative to the penalties for certain court defaults.

HB 267, prohibiting petroleum-powered motors on Little Dan Hole Pond in the town of Ossipee.

HB 307, relative to the adoption of local river corridor management plans by planning boards.

HB 403, prohibiting the use of trotlines to take fish.

HB 681, relative to penalties for certain violations of fish and game laws and granting rulemaking authority to the executive director relative to registration agent fees for wild turkey permits.

Senator J. King moved that the Senate now adjourn until Thursday, March 27, 1997 at 10:00 a.m.

Adopted.

Adjournment.

March 27, 1997

The Senate met at 10:00 A.M.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

I would like to offer a prayer in memory of Representative Dick Krueger and also former Governor Dwinell who died last night. Please remember both of these men as they enter larger life and also their families who must deal with the pain of this loss.

Father of all, we pray to You for those we love but see no longer, especially these Your children, Dick and Lane. Grant them peace and let light perpetual shine upon them and in Your loving wisdom and mighty power, work in them and in us, the good purpose of Your perfect will. Amen

Senator Blaisdell led the Pledge of Allegiance.

Senator Patenaude is excused for the day.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

SB 162-FN-A-L, relative to the acquisition of a certain piece of property in Piermont, New Hampshire and making an appropriation therefor. Capital Budget Committee. Vote: 7-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0835s
03/02

Amendment to SB 162-FN-A-LOCAL

Amend the bill by replacing all after section 1 with the following:

2 Appropriation. The sum of \$950,000 is hereby appropriated to the department of resources and economic development for the purchase of a certain tract of land located in Piermont, New Hampshire at Lake Tarleton.

3 Bonds Authorized. To provide funds for the appropriation made in section 2 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$950,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A.

4 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill makes a bonded appropriation to the department of resources and economic development to provide funds to purchase certain property in Piermont, New Hampshire.

SENATOR GORDON: Senate Bill 162-FN, an act relative to the acquisition of a certain piece of property in Piermont, New Hampshire and making an appropriation therefor, was referred to Finance from the Economic Development Committee where it passed unanimously. This bill as amended in the Capital Budget Committee will authorize nine hundred and fifty thousand dollars of general funds indebtedness for the purchase of this land by the Department of Resources and Economic Development. This act shall take effect July 1, 1997. The Capital Budget Committee recommends SB 162 be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 213-FN-A, establishing a fund for loans to rehabilitate class III railroads and cog railroads and making an appropriation therefor. Capital Budget Committee. Vote: 6-1. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, SB 213-FN-A establishes a fund for loans to rehabilitate class III railroads and cog railroads and making an appropriation therefor. This bill was referred to the Capital Budget Committee from the Transportation Committee where it met with no opposition. Senate Bill 213 extends the railroad rehabilitation fund to include cog railways and authorizes \$1.5 million of general funds bonded indebtedness to be deposited into the revolving loan fund for the fiscal year ending June 30, 1998, for the purpose of rehabilitating the rail lines of class III railroads and cog railroads. This appropriation shall be nonlapsing and the act shall take place on July 1, 1997. The vote in the committee was 6-1 as ought to pass.

Adopted.

Ordered to third reading.

SB 160-FN, establishing criteria for determining manifest educational hardship. Education Committee. Vote: 7-0. Inexpedient to legislate, Senator Rubens for the committee.

SENATOR RUBENS: Senate bill 160 would have defined manifest educational hardship in statute. The issues, manifest educational hardship are complex. The committee decided that this issue should be studied along with issues related to school discipline before changes are made. There is a committee created in proposed SB 202 making this bill unnecessary and duplicate. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 165, establishing a committee to study withdrawal from cooperative school districts. Education Committee. Vote: 6-0. Ought to pass with amendment, Senator J. King for the committee.

1997-0816s

04/01

Amendment to HB 165

Amend paragraph I(b) as inserted by section 2 of the bill by replacing it with the following:

(b) Three members of the house education committee, appointed by the speaker of the house.

SENATOR J. KING: House Bill 165, this bill establishes a committee to study withdrawal from a cooperative school district. Last year the withdrawal statutes were changed and it is necessary to take a close look at the statute regulating withdrawal from these districts. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 219-L, repealing provisions relative to literacy instruction and the committee to study literacy and remedial instruction. Education Committee. Vote: 6-0. Ought to pass, Senator Rubens for the committee.

SENATOR RUBENS: This bill would repeal provisions relative to literacy instruction that were instituted in 1988. At the time, the statute

was a vehicle for the education department to spend funds on literacy instructions. These statutes have never been activated or funded because there has never been funding of the statutory committee intended to study literacy and remedial instruction decided that the statute should be repealed and that it was unnecessary to even have the statutory committee. This bill accomplishes that goal. Secondly, the state education and improvement and assessment program are aimed in a more comprehensive manner at school improvement that includes literacy and reading remediation improvement. Therefore, the committee recommends this bill as ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 230, establishing a committee to study the school building aid system. Education Committee. Vote: 7-0. Ought to pass with amendment, Senator Rubens for the committee.

1997-0815s

04/01

Amendment to HB 230

Amend the bill by replacing sections 2 and 3 with the following:

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Two members of the house education committee, appointed by the speaker of the house.

(c) One member of the house finance committee, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall examine issues relating to the school building aid system including, but not limited to, means tested building aid, and study various revenue sources and funding methods.

AMENDED ANALYSIS

This bill establishes a legislative committee to study issues relating to revising the school building aid system including, but not limited to, means tested building aid, and study various revenue sources and funding methods.

SENATOR RUBENS: This bill establishes a committee to study the building aid system. The bill originally changed the formula for distributing building aid, but the House Education Committee felt that a study was more appropriate at this time, the Senate Education Committee agrees with the House on that therefore, unanimously, recommend this bill as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

HB 321, correcting a reference to the American Podiatry Association. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass, Senator Podles for the committee.

SENATOR PODLES: House Bill 321, correcting a reference to the American Podiatry Association. This bill changes a reference to the American Podiatry Association to the American Podiatric Medical Association. The

name was changed on a national level. Proponents of the bill simply wanted New Hampshire law to reflect the accurate name of the association. No one opposed the bill at the hearing. This committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 325, eliminating the correctional industries advisory board. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House bill 325, eliminating the Correctional Industries Advisory Board. Peter McDonald, administrator for New Hampshire Prison Industries, testified during the hearing on March 20 that forcing the advisory board to operate through statute is a cumbersome and exhaustive process. Mr. McDonald testified that it would be more appropriate and more efficient to create a Department of corrections Training, Industries, and Education Advisory Board that would absorb the mission currently stated in RSA 622:28-b and add to that mission from the function of training. As we saw from the representatives from Prison Industries who displayed their wares downstairs in the LOB the week of March 17th, Prison Industries does a great service to the state of New Hampshire. Prisoners learn job skills and schools and towns that recruit Prison Industries for projects save money and pass on savings to taxpayers. In addition, Prison Industries purchases much of its raw materials from local New Hampshire businesses. In the past six years, Prison Industries has eliminated its debt and doubled its business. An internal board (rather than a statutory advisory board involving the executive and legislative branches of government) would allow Prison Industries to operate more efficiently and to realize its full potential. No one opposed the bill in the hearing. The committee recommends that this bill ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 47-FN, continuing the marital guardian ad litem recovery program in the unit of cost containment, office of the commissioner of administrative services. Finance Committee. Vote: 5-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: Senate Bill 47, an act continuing the marital guardian ad litem recovery program in the unit of cost containment, office of the commissioner of administrative services, was referred to the Finance Committee from the Senate Judiciary Committee where it met with no opposition. This bill will continue the marital guardian ad litem recovery program with administrative services. This program recovers fees and expenses paid by the state for the guardian program on behalf of dependent children in a divorce. The program is self supporting with general fund revenues at one hundred and twenty thousand dollars in fiscal year 1998, and one hundred and seventy thousand dollars in fiscal year 1999, and two hundred and twenty thousand dollars in fiscal 2000, and two hundred and seventy thousand dollars in fiscal 2001. Expenditure for three positions already on board, costs eighty thousand dollars annually. This bill will take effect 60 days after passage. The Finance Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 77-FN-A, relative to congregate housing and making an appropriation therefor. Finance Committee. Vote: 5-0. Inexpedient to legislate, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this is a bill that has always been very close to the hearts of the New Hampshire Senate as long as I have been here, as long as congregate housing has been into effect. This bill here, would have provided funding for continued support of the congregate housing services and would have appropriated about four hundred thousand dollars for fiscal 1998 for the Department of Health and Human Services for that purpose. Currently, if you read the governor's budget on page 709, there is currently an appropriation, the governor's recommended operating budget in the amount of seven hundred and ten thousand dollars for fiscal year 1998 and sixty-six thousand dollars in fiscal year 1999 for congregate housing. It is because of this process and the budget process, that we are going through right now, that this properly should be done through the budget process and this is why the Senate Finance Committee moves this bill inexpedient to legislate, not because we are not in favor of congregate housing, but because we figured it is a budget item which we have handled over the past few years, we handled it in the last session of the legislature and it got some appropriation and we were hoping that we were going to be able to get more, but this is why we put it as inexpedient to legislate. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 88-FN-L, returning municipal ordinance fines to the municipalities. Finance Committee. Vote: 4-1. Inexpedient to legislate, Senator Barnes for the committee.

SENATOR BARNES: Senate Bill 88, an act returning municipal ordinance fines to the municipalities, was referred to Finance from the Judiciary Committee. This bill proposes that municipalities will retain those fines, less a \$15 administrative fee, collected by the state, enforced by their officers as a result of an infraction of the local municipal ordinance. The purpose of this bill, it is assumed that motor vehicle speed violations will be the majority of these violations. As a result, fines currently collected by the courts and the Department of Safety, plea-by-mail, will reduce revenue to the state general fund and increase local revenues by an estimated \$6.7 million annually. Because of the loss of the estimated \$6.7 million in general funds annually, the committee on Finance recommends this bill as inexpedient to legislate. I certainly hope that you can back up the committee's report.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Whipple.

Seconded by Senator J. King.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, McCarley, Roberge, Blaisdell, D. Wheeler, Squires, Francoeur, Podles, Barnes, Danaïs, K. Wheeler, Delahunty.

The following Senators voted No: Whipple, Pignatelli, Larsen, J. King, Hollingworth.

Yeas: 16 - Nays: 5

Committee report of inexpedient to legislate is adopted.

SB 102-FN, relative to the possession of certain weapons in the commission of a violent crime. Finance Committee. Vote: 5-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 102-FN an act relative to the possession of certain weapons in the commission of a violent crime was referred to the Finance Committee from the Judiciary Committee. This bill makes a person guilty of a misdemeanor if that person's armed with or has a sling shot, metallic knuckles, billies or other dangerous weapons while committing a crime classified as a violent misdemeanor or felony. This bill will take effect January 1, 1998. The committee on Finance recommends SB 102-FN as ought to pass.

Adopted.

Ordered to third reading.

SB 169-FN, relative to a college tuition savings plan. Finance Committee. Vote: 6-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0834s
03/02

Amendment to SB 169-FN

Amend RSA 195-H:4, I as inserted by section 2 of the bill by replacing it with the following:

I.(a) The treasurer shall issue requests for proposals to evaluate and determine the vehicle for investments of the savings plan and its administration.

(b) The commission shall consider and, if appropriate, give preference to proposals best meeting the following criteria:

(1) Ability to administer financial programs with individual account maintenance and reporting.

(2) Ability to develop and administer an investment program of a nature similar to the objectives of the college tuition savings plan.

(3) Ability to augment the college tuition savings plan with other programs or informational services considered beneficial by the commission.

The final selection of the vehicle for investments and its administration shall be made by the commission.

SENATOR GORDON: Senate Bill 169-FN, relative to a college tuition savings plan, was referred to Finance from the Education Committee where it met with no opposition. This bill establishes an advisory commission to ensure proper administration and management of the college tuition savings plan. The commission is charged with establishing rules by which the plan will operate. The committee amendment simply establishes a criteria to evaluate savings plan and vehicles for investments by the advisory commission. The income from the funds invested in the plan will not be subject to New Hampshire interest and dividends tax. The bill will result in an estimated two hundred and fifty thousand dollars decreasing the dividends tax exempt status. Senate bill 169-FN shall take effect July 1, 1997. The Senate Finance Committee recommends this bill as ought to pass as amended.

SENATOR LARSEN: I would like to congratulate the Senate on the bipartisan work that has gone on, on this bill, and that we together have been able to create a system to allow families to begin savings for their children's education from birth from on through graduation, and actu-

ally, on through continuing education classes. I rise to thank all of you for your support and for the help of the Finance Committee. Thank you very much.

Amendment adopted.

Ordered to third reading.

SB 176-FN, relative to late payment of the legacies and successions tax. Finance Committee. Vote: 5-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0809s

08/09

Amendment to SB 176-FN

Amend the bill by replacing section 1 with the following:

1 Estimated Tax; Legacies and Successions. Amend RSA 86:90, VI to read as follows:

VI. The failure to file returns, except for good cause shown, the filing of fraudulent returns or the making, causing to be made or permitting to be made any false entry in the books or records of the estate with the intent to defraud the state or to evade the payment of the tax or any part thereof shall subject the executor or administrator to the penalties provided in RSA 21-J for such actions; *provided, however, that if a person should fail to file a return within 9 months of the decedents' death, that person may file an estimated tax payment of at least 90 percent of the total tax due and, even if the return cannot be completed, no further penalties shall accrue as of the date the estimated tax payment is made.*

AMENDED ANALYSIS

This bill provides that, where a person has failed to file a return within 9 months of the death of a decedent, the person may file an estimated tax payment of at least 90 percent of the total tax due and accrue no further penalties as of the date of payment.

SENATOR GORDON: Senate Bill 176-FN, relative to late payment of the legacies and successions tax were referred to Finance from the Judiciary Committee where it met with no opposition. This bill as amended, provides that when a person has failed to file a legacy and succession tax return within nine months of the death of a decedent, the person may file an estimated return and accrue no further penalties or interest as of the date of filing. This would freeze the interest in penalties instead of having them keep accumulating until an estate is finalized. The Department of Revenue and Administration in its fiscal note, assumed all interest in penalties on legacy and succession tax returns would be lost to the state. However, interest in penalty revenue would continue to accrue to the state except in situations where the taxpayer who has property addressed his or her tax liability. This act would take effect July 1, 1997. The committee on Finance recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 180-FN-A, relative to the maintenance, enhancement, and rehabilitation of local rural airport service and making an appropriation therefor. Finance Committee. Vote: 5-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-0833s
03/02

Amendment to SB 180-FN-A

Amend RSA 423:11, I as inserted by section 2 of the bill by replacing it with the following:

There is hereby established in the state a fund to be known as the rural airport capital revolving loan fund. The fund shall be used to provide loans to enhance and rehabilitate all non-commercial service airports open to the public in towns with populations of 14,000 or less. Loans to airports from this fund shall be subject to the approval of the governor and council.

SENATOR FRASER: Senate Bill 180-FN-A, relative to the maintenance, enhancement, and rehabilitation of local rural airport service and making an appropriation therefor, was referred to the Finance Committee from the Transportation Committee where it met with no opposition. This bill establishes a rural airport capital revolving loan fund to be used to rehabilitate eligible airports as identified by the New Hampshire Aeronautics Capital Improvement Plan. Other airports not part of this plan can receive loans but must go to the governor and council for approval. As amended, SB 180 changes the eligibility criteria of qualified airports to noncommercial airports in towns with population of less than fourteen thousand. The amendment would require governor and council approval for all loans. This bill appropriates seven hundred and fifty thousand dollars in fiscal year 1997 to the revolving loan fund. This appropriation is bonded and debt service paid by the general fund. This act shall take effect 60 days after passage. The committee on Finance recommends this bill as ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 197-FN, relative to final dispositional orders in child protection cases. Finance Committee. Vote: 5-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 197-FN, relative to final dispositional orders in child protection cases, was referred to Finance from the Judiciary Committee. This bill will enable child care providers to have their cases tried in a court of law after an administrative hearing found them guilty of child abuse and neglect. Currently, a child care provider is licensed by the Department of Health and Human Services. The same state agency also conducts hearings into these cases and makes a determination of abuse and neglect. At no time can a licensed child care provider have his or her case tried in a court room with an objective judge and full due process of law. This bill allows child care providers to have their day in court. The Judiciary Committee was unanimous in its support of SB 197-FN. The Department of Health and Human Services estimated that the additional appeals due to this would increase costs for court appointed attorneys, guardian ad litem and witness fees by forty-two thousand dollars in fiscal year 1998 and eighty-five thousand dollars in fiscal year 1999.

Adopted.

Ordered to third reading.

SB 132, establishing a managed care consumer's bill of rights. Insurance Committee. Vote: 6-2. Inexpedient to legislate, Senator Danaïs for the committee.

SENATOR DANAIS: Senate Bill 132 is relative to the regulation of managed care organizations. The Insurance Committee felt that SB 178 would be the combination managed care bill to come out of the committee and then multiple bills concerning Medicare market was unnecessary. The Committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 222-L, relative to pooled risk management programs. Insurance Committee. Vote: 5-1. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill clarifies the composition of a board that is established to govern poor risk management programs for obtaining insurance. The clarification is that the whole board does not have to be elected or appointed public officials, officers or employees, which they currently do need to be. Those requirements cause the board to lose important members when their terms end. The majority of the board would still need to be elected or appointed officials, officers or employees. The majority of the committee urges adoption of HB 222.

Adopted.

Ordered to third reading.

Senators Francoeur and D. Wheeler are in opposition to HB 222.

HB 678, relative to the expansion of veterans' home services. Insurance Committee. Vote: 6-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, we are very fortunate in this state to have a veteran's home like we have up in Tilton. We should be very proud of it and the dedication of the people that are in that veteran's home and the people who work there. They came before us on HB 678. It expands the services offered by the veteran's home. If we pass this bill, the home will be able to provide more medical services to the elderly. Currently, more home mental health services are provided to the elderly and this bill will allow that change and the type of care to be utilized in the Veteran's Home. This bill amends the enabling legislation when we put the Veteran's Home up there, that created the home, to allow them to offer more services. The Committee of Insurance was enthusiastic about recommending this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 6, relative to real estate appraisers. Internal Affairs Committee. Vote: 6-1. Ought to pass with amendment, Senator Fraser for the committee.

1997-0837s

05/09

Amendment to SB 6

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Licensure and Certification Use. Amend RSA 310-B:3 by inserting after paragraph II the following new paragraphs:

III. The provisions of this chapter shall not apply to an employee, or an elected or appointed representative of a municipality or a person under contract by a municipality doing valuation for the sole purpose of ad valorem taxation.

IV. The provisions of this chapter shall not apply to a real estate licensee under RSA 331-A when performing comparative market analyses or broker price opinions pursuant to permitted activities regulated by the New Hampshire real estate commission.

2 New Section; Advertising. Amend RSA 310-B by inserting after section 3 the following new section:

310-B:3-a Advertising. A person who is not state-licensed or state-certified under the provisions of this chapter shall not advertise or cause to be published an advertisement for appraisal services as a state-licensed or state-certified appraiser.

3 Real Estate Appraiser Board Composition Changed. Amend RSA 310-B:4, I to read as follows:

I. There is hereby established an independent real estate appraiser board which shall be administratively attached to the department of state. The board shall consist of the following **9** members: ~~[3]~~ **4** real estate appraisers with a minimum of 5 years' experience, one representative from a New Hampshire lending institution, the banking commissioner or designee, one real estate broker licensed under RSA 331-A, and ~~[one]~~ **2** ~~[member]~~ **members** of the general public not associated directly or indirectly with banking, brokerage, real estate appraisal, insurance, or any other affected industry. All members shall be appointed by the governor with the consent of council.

4 Classifications of Real Estate Appraisers. Amend RSA 310-B:6, I is repealed and reenacted to read as follows:

I. There shall be the following classifications of real estate appraisers which shall meet the criteria as the board shall require by rules adopted under RSA 541-A:

(a) Apprentice. The apprentice real estate appraiser classification shall consist of those persons who do not meet the requirements under subparagraph (b), (c), or (d), but are in the process of completing the requirements for one of the classifications of a real estate appraiser. Apprentice real estate appraisers shall be required to work under the supervision of either a New Hampshire licensed or certified appraiser until the requirements for licensure or certification have been met.

(b) Licensed residential real estate appraiser.

(c) Certified residential real estate appraiser.

(d) Certified general real estate appraiser.

5 Only Chairperson's Signature Required. Amend RSA 310-B:16, I to read as follows:

I. A license or certificate issued under authority of this chapter shall bear the ~~[signatures]~~ **signature** of the ~~[members]~~ **board chairperson or a designee who is a member** of the board and a license or certificate number assigned by the board.

6 New Sections; Grievances; Complaints. Amend RSA 310-B by inserting after section 17 the following new sections:

310-B:17-a Grievances.

I. All grievances shall be in writing and objectively received and reviewed by the board.

II. If the board determines that a grievance requires further investigation, it shall be acted upon within 90 days.

III. Disposition of all grievances shall be voted on by the board.

IV. The board, on its own motion and in accordance with the provisions of this chapter, may commence a disciplinary proceeding.

310-B:17-b Complaints.

I. Complaints shall not be accepted for filing with the board unless the grievance procedures in RSA 310-B:17-a have been concluded, and

the board has not initiated disciplinary proceedings. The aggrieved party may proceed with the complaint process if the aggrieved party does not agree with the decision of the board.

II. To be accepted for filing, complaints shall be filed on a form provided by the board.

III. Properly filed complaints shall be reviewed by the board to determine compliance with this section.

IV. Upon confirmation that a complaint complies with the provisions of this section, the board shall schedule a disciplinary proceeding on the complaint in accordance with the provisions of this chapter.

7 Disciplinary Proceedings. Amend the introductory paragraph of RSA 310-B:18 to read as follows:

The board may revoke or suspend the licensure or certification of, **or may assess a fine of not more than \$2,000 for each offense, require mandatory completion of continuing education, or take any combination of the preceding actions, relating to** any [licensed or certified] real estate appraiser, in accordance with the provisions of this chapter, upon any of the grounds set forth in this section[~~The board may investigate the actions of a licensed or certified real estate appraiser, and may revoke or suspend the license or certificate of a licensed or certified real estate appraiser~~] for any of the following acts or omissions:

8 Guilty Plea or Nolo Contendere Relative to Convictions Deleted. Amend RSA 310-B:18, IV to read as follows:

IV. A conviction[~~including a conviction based upon a plea of guilty or nolo contendere,~~] of a crime which is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others.

9 Negligence or Incompetence Determined by Board; "Willful" Disregard Deleted. Amend RSA 310-B:18, VIII and IX to read as follows:

VIII. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal **as determined by the board.**

IX. [Willfully] Disregarding or violating any of the provisions of this chapter or the rules adopted by the board for the administration and enforcement of this chapter.

10 All Parties to be Served Personally or By Certified Mail. Amend RSA 310-B:19 and 20 to read as follows:

310-B:19 Hearings. The board shall take no disciplinary action without a hearing. At least 14 days prior to hearing, [both] **all** parties to a disciplinary proceeding shall be served, either personally or by certified mail, return receipt requested, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints received by the board within 90 days after the date notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Disciplinary hearings shall be conducted **within 90 days of receipt of the complaint** before at least [5] **7** members of the board. Written notice of all disciplinary decisions made by the board shall be given to [both] **all** parties to the proceeding upon their issuance. Orders of the board shall be subject to [rehearing and appeal in the manner prescribed by] the contested case provisions of RSA [541] **541-A.**

310-B:20 Fees. The board shall establish fees for application, for examination of applicants, for **apprentices, and renewals of apprentice status for** licensure or certification, [and] for renewal of licensure or

certification under this chapter, and for transcribing and transferring records and other services. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year, and sufficient to provide for periodic payments to reimburse the general fund for money appropriated for the purposes of this chapter.

11 Reference to Council Deleted. Amend RSA 310-B:22 to read as follows:

310-B:22 Roster. A roster showing the names, classification and place of business of all real estate appraisers licensed or certified under this chapter, who have paid their annual federal registry fee to the board, shall be submitted annually with the moneys collected to the *federal* Appraisal Subcommittee[~~Federal Financial Institutions Examination Council (FFIEC) pursuant to Title XI~~]. A copy of the roster shall be placed on file with the secretary of state.

12 New Section; Summons, Oaths, Witnesses; Procedures. Amend RSA 310-B by inserting after section 23 the following new section:

310-B:23-a Summons; Oaths; Witnesses.

I. The board shall have the power to administer oaths or affirmations, preserve testimony, subpoena witnesses, and to compel by subpoena duces tecum, the production of all books, records, files and documents, whether originals, copies or in electronic or other form, and other materials, relevant to its investigation of any grievance, complaint or disciplinary proceeding before the board.

II. The board may serve a subpoena by certified mail or by personal delivery.

III. A minimum of 10 business days' notice shall be given for compliance with a subpoena under this chapter.

13 Continuing Education Requirements Set by the Board. Amend RSA 310-B:24, VIII-a to read as follows:

VIII-a. Establishing continuing education and experience requirements which comport with [the] criteria [~~set forth by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council~~] *as the board shall require.*

14 New Section; Penalty. Amend RSA 310-B by inserting after section 24 the following new section:

310-B:24-a Penalty. Any person who violates RSA 310-B:3 or 310-B:3-a shall be guilty of a misdemeanor.

15 Terminology Correction. Amend RSA 310-B:25 to read as follows:

310-B:25 [~~Separability~~] **Severability**. If any provisions of this chapter or the application thereof to any person or in any circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

16 Repeal. The following are repealed:

I. RSA 310-B:18, II, relative to failure to meet minimum qualifications under this chapter.

II. RSA 310-B:18, X and XI, relative to predetermined or contingent appraisal results as a condition for assignment or fee, and relative to violating the confidential nature of governmental records.

17 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Establishes certain prohibitions on advertising relative to real estate appraisals.

II. Changes the composition of the real estate appraiser board.

III. Establishes classifications of real estate appraisers.

IV. Requires only the board chairperson's signature on licenses or certificates issued. Current law required the signatures of all board members.

V. Adds grievance and complaint procedures and requirements and modifies the board's disciplinary authority.

VI. Modifies fee and hearing requirements.

VII. Makes any person who violates certain laws relative to real estate appraisal guilty of a class A misdemeanor.

VIII. Exempts certain municipal agents and certain real estate licensees.

Repeals various provisions.

SENATOR FRASER: I am very proud to be bringing SB 6 to the floor of this body today. This has been a very difficult issue for three segments of our business community, namely the banks, the real estate brokers and the real estate appraisers. It took a great deal of work and a lot of give and take on the part of the many people in order to come up with an agreed upon bill and that is what SB 6 as amended currently is. Senate Bill 6 relative to the licensure and certification of real estate appraisers, previously contained several provisions that could have negatively impacted several industries that utilize real estate appraisal services. The amended version of this bill, addresses these concerns and has the consent of the concerned industries. The amended version contains the following versions: 1) It exempts representatives of a municipality performing all evaluations on property that it assesses. 2) Exempts real estate licensees from performing competitive market analysis and brokerage price opinions from the authority of the appraisal board. 3) It increases the appraisal board membership from seven to nine by adding an additional appraiser and an additional public member. 4) It provides for the four following classifications of real estate appraisers: Apprentice, licensed residential real estate appraiser, certified residential real estate appraiser and certified general real estate appraiser. 5) It clarifies the appraisal board hearing disciplinary complaint and grievance procedures. Mr. President, we urge the adoption of SB 6 as amended.

Amendment adopted.

Ordered to third reading.

SB 208-FN-A, establishing the office of the business advocate and making an appropriation therefor. Internal Affairs Committee. Vote: 5-0. Inexpedient to legislate, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, SB 208 would have created a position business advocate. The advocate would have represented small businesses in the area of electric utility deregulation. The committee felt that there are a number of problems with creating this position at this time. 1) We need less regulation of bureaucracy. 2) This office would add an additional layer of bureaucracy. 3) This office would only deal with one specific industry, the electric utility industry. 4) The office would cost about five hundred thousand dollars to operate, the cost of which would be borne by the utility customers through an assessment of the electric utilities and there would be an additional appropriation from the general fund of one hundred and fifty thousand dollars. The committee was unanimous in recommending this bill be reported out as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senators Roberge, Rubens and Whipple are in opposition to the motion of inexpedient to legislate.

SB 149, prohibiting state agencies managing federal programs from exceeding their statutory authority in implementing administrative rules and in placing restrictions on activities of the private sector. Interstate Cooperation Committee. Vote: 3-2. Ought to pass with amendment, Senator Podles for the committee.

1997-0784s
05/08

Amendment to SB 149

Amend the title of the bill by replacing it with the following:

AN ACT prohibiting state agencies managing federal programs from exceeding their statutory authority in placing restrictions on activities of the private sector.

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; State Agencies Managing Federal Programs. Amend RSA by inserting after chapter 124-A the following new chapter:

CHAPTER 124-B

STATE AGENCIES MANAGING FEDERAL PROGRAMS

124-B:1 Exceeding Statutory Authority of Agency Prohibited.

I. Any state agency, as defined in RSA 541-A:1, II, seeking to enforce administrative rules shall not impose restrictions on private sector entities greater than those restrictions required by the federal law or federal regulations of the federal program managed by the agency unless the agency has statutory authority to do so or unless the joint legislative committee on administrative rules has approved adoption of emergency rules.

II. An agency seeking to enforce any administrative rule or restriction related to a federally funded program or any federal program governed by federal laws or regulations being managed by the agency on any private sector entity shall provide, upon request, such entity with copies of specific statutory provisions establishing the agency's authority to establish such rule or restriction and to enforce it.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill prohibits any state agency managing a federally funded program or any federal program governed by federal laws or regulations from exceeding such agency's authority established under New Hampshire statutory law in placing restrictions on activities of private sector entities.

SENATOR PODLES: Mr. President, SB 149 will prohibit state agencies from exceeding the mandates of the federal government when managing federal programs. Some agencies adopt rules relative to the management of these programs that are more restrictive than required under the federal program. This ends up costing the private sector more because they must comply with these rules. The agencies in question would have to provide the private sector with copies of the specific statutory provisions that allow those agencies to adopt such rules. The committee recommends that this bill ought to pass with amendment.

SENATOR LARSEN: This is the one bill that is in my committee this session so far, so it is difficult to get up and explain why I was not able to support this bill. I have real concerns, New Hampshire prides itself on its environment and the clean environment that we have. One way that we maintain that is by having administrative rules that are sometimes more stringent than the federal government and they protect what we find is special in this state. This bill will say that the state rules can not be more stringent than what the federal government says unless it is written in statute. I have some concerns with that because there are times when we hear from the Department of Environmental Services and other departments, that we need to have more stringent regulations. I agree that state agencies should not impose additional burdens on private industry without statutory authority from our state government; however, I do not believe that we want to have that more stringent language in our statutes. I think what we need to do is to go back and address how the Administrative Rules Committee operates and give the Rules Committee authority to stop rules that impose a burden on private industry. I believe that we would be at fault to pass this bill because we would end up with statutes that go far too deep into issues. For example, parts per million, when the Department of Environmental Services tells us that we need to be more strict on certain regulations. I think that we are in danger of filling our statutes with minutiae and I worry that administrative rules will no longer be the way that we have things done. I urge you to consider this carefully and realize that we are stepping into an area that I think may prove to be a problem later on. Thank you.

SENATOR F. KING: This is a bill that I introduced after sitting on the Administrative Rules Committee for two years and now as chairman of the Administrative Rules Committee. We have provided a protection to the local governments in this state against impositions of requirements that are greater than federal law through the 28-a issue. This legislature and the citizens of the state voted to change the constitution because they felt that the state should not mandate the costs to local governments when mandating restrictions that were greater than were in the federal law. Most of us when we campaigned have heard from small businesses throughout the state that one of the problems that they have is the problem of continuing more and more regulations, imposing requirements in their business and not only making it more difficult and a menace to their business but also costing them more money. This bill will allow the administrative agencies, if there is an emergency, following the rule's process, to implement emergency legislation if necessary. The intent of this bill is to make people who have to get elected every two years, impose these costs on business just like we now have to impose costs on local governments through changing laws. It will restrict the law making ability of administrative agencies. There has to be a separation of power between the legislature and the administrative agencies, we all recognize that. So the purpose of this bill is to simply say to an agency when they are administering a federal law that we certainly want those laws administered locally and not by the federal government, and imposing those laws, that they can not make them more restrictive than the federal law calls for. These are not life threatening instances. If there is a need, I would indicate that the issue that came up last year was the issue of sludge. We found

that there were no rules to control the spreading of sludge on the state's land. Through the administrative process, the Department of Environmental Services implemented emergency rules and puts them in place and provided protection for the communities that had concerns. I believe that there are three or more pieces of legislation in this session that are dealing with the issue of sludge and the application of sludge. I would suggest that, that is the process that we ought to follow. If we are really and truly going to try and find a way to control cost in our private business, I think that we ought to pass this law, just like we not only changed the constitution, but we also passed a law subsequent to that, well the legislature did, to make it very clear that administrative agencies that were in business before the constitution changed, could no longer impose those additional costs on our governments. I think, that at the very least, our private sector deserves the same protection as the towns and cities. I would ask you to pass this bill.

SENATOR PIGNATELLI: I am not going to be able to vote for this bill today. I think that one of the reasons is that we all know that compromise is the way that the federal government works and to a great extent, the way that we work also. When the federal government looks at passing legislation regarding the environment, especially, they might look at states other than New Hampshire, and the regulations and rules that they might pass, might benefit other states but might hurt us. I feel that it is necessary that we retain the control to look at these rules and regulations that the federal government passes and decide as a state, whether we want to maintain stricter standards, especially when it comes to the environment, than the federal government has told all of the states that they need to maintain. I urge you to join me in not supporting this SB 149. Thank you.

SENATOR RUBENS: I rise in support of Senator King's statements and of this bill as amended. I sat on the committee and heard the debate on this. We are attempting here to do something very important, which is to clarify the dividing line and to clarify the extent to which a regulatory body can create statute out of thin air without being empowered to do so. This bill does a very simple thing, it says that the administrative agency to the state, can not create regulations that go beyond federal laws, federal rules or state statute, or in the case that Senator King mentioned, where emergency state rulemaking is required. It dis-empowers our regulatory agencies from doing exactly that. It is a critical bill. If we need more law or regulation, for example, to protect our environment in our state, we do it via statutory changes. We do not empower executive agencies by rule to usurp our duties as legislators. We do a more precise job than they do when it comes to tough issues of public policy. Thank you very much.

SENATOR PIGNATELLI: Senator Rubens, are you concerned with our statutes filling up with regulations that we might want to pass in response to having passed this to deal with such items as parts per millions, milligrams per million, and what if we passed something that we think at the time is stricter and we need it, and then two years later new information comes in, are we going to go back and pass another bill that has a lesser number of parts per billion? This is very complicated legislation and a very complicated issue for legislatures to understand.

SENATOR RUBENS: I recommend that the legislature should wish to protect the environment in a way that is above and beyond or better than the federal government is doing. We do it via policy and not via micro-management directed by minutiae, but we set standards as goals and grant latitude by statute to the executive agencies or the rule makers to accomplish those goals. We can do that, but we must do that by statute and we must do it after thorough debate in the legislature. We are the policy making body, not the regulators.

SENATOR PIGNATELLI: Thank you.

Amendment adopted.

Ordered to third reading.

HB 105, allowing an extension of time limits upon a showing of good cause for holding an adjudicatory hearing in certain delinquency cases. Judiciary Committee. Vote: 7-0. Ought to pass with amendment, Senator Podles for the committee.

1997-0820s

04/01

Amendment to HB 105

Amend the bill by replacing section 2 with the following:
2 Effective Date. This act shall take effect upon its passage.

SENATOR PODLES: House Bill 105 allows an extension of time limits upon showing a good cause for holding adjudicatory hearings in certain delinquency cases. Currently, if an adjudicatory hearing does not take place within twenty-four days of arraignment for minors detained or 30 days of arraignment for minors not detained, pending such hearings, the case is dismissed. This has already happened in several situations. For example, a snow storm canceled a hearing and a juvenile was released from a felony charge because of this technicality in the law. It can be very disheartening for the victims and the families to see the accused walk free. The intent of the bill is to make an exception to the rule by allowing an extension of not more than 14 calendar days upon showing of good cause. The committee wants to convey that this extension should not be granted lightly; however, where good cause is justified, the additional days are warranted in order to hold a hearing. The amendment makes the act effective upon passage. We recommend that the bill be ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 331, adopting the uniform foreign depositions law. Judiciary Committee. Vote: 6-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: House Bill 331, adopting the uniform foreign deposition's law. In a nutshell, it makes it easier to arrange depositions here in this state for litigation in progress in other states. Approximately 19 states have already passed similar legislation and this uniformity will facilitate the process of obtaining testimony from witnesses.

Adopted.

Ordered to third reading.

HB 338, repealing certain requirements relative to the duty to deliver a copy of process to prisoners. Judiciary Committee. Vote: 7-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-0807s

05/01

Amendment to HB 338

Amend the title of the bill by replacing it with the following:

AN ACT relative to the duty to deliver a copy of process to prisoners.

Amend the bill by replacing all after the enacting clause with the following:

1 "Hours" Changed to "Business Hours". Amend RSA 534:26 to read as follows:

534:26 Copy of Process. If an officer having the custody of a prisoner, on payment or tender of his fees therefor, shall not, within [~~six~~] **6 business** hours after demand made, deliver to the prisoner a true copy of the warrant or process by which he is holden in custody he shall forfeit to the party aggrieved the sum of two hundred dollars.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill modifies the law which establishes the penalty for a law enforcement officer having custody of a prisoner who fails to deliver within 6 hours to the prisoner a true copy of the warrant or process by which the prisoner is held. The bill requires that delivery occur within 6 business hours.

SENATOR FRANCOEUR: This bill would update a statute that was written in the mid 1800's. The House had voted to repeal the provision that would require a copy of the process that was the written reason why the prisoners were being held within six hours. Supporters of the bill testified that the six hour time limit is not feasible when administrative hours are closed after hours. The committee decided that it would be sufficient to amend this provision to read "six business hours."

Amendment adopted.

Ordered to third reading.

HB 249, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations. Public Affairs Committee. Vote: 5-2. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: I am going to read the report on this bill, but we also have an amendment that we are going to offer after. This bill clarifies the authority of certain officials and law enforcement officers to serve the cease and desist orders against planning and zoning violations. Though code enforcement officers are currently able to request that an entity cease and desist, current law provides that a sheriff must serve the official cease and desist order that has full legal effect. In the amended version adopted by the House, personal service may be made by a building inspector, code enforcement officer, zoning administrator, sheriff, deputy sheriff, local police officer or constable. Time is of the essence when delivering cease and desist orders. By allowing persons other than sheriffs to issue cease and desist orders, towns will only be more efficient. The Senate Public Affairs Committee recommends this bill as ought to pass. Thank you.

Adopted.

Senator Francoeur offered a floor amendment.

1997-0909s

09/08

Floor Amendment to HB 249

Amend the title of the bill by replacing it with the following:

AN ACT clarifying the authority of local police officers to serve cease and desist orders against planning and zoning violations.

Amend RSA 676:17-a, II as inserted by section 1 of the bill by replacing it with the following:

II. The order shall be served upon the record owner of the property or the record owner's agent, and upon the person to whom taxes are assessed for the property, if other than the owner, and upon any occupying tenant of the property, and upon any other person known by the enforcing officer to exercise control over the premises in violation, and upon all persons holding mortgages upon such property as recorded in the office of the register of deeds, in the same manner provided for service of a summons in a civil action in district court. *Personal service may be made by a sheriff, deputy sheriff, local police officer, or constable.* If the owner is unknown or cannot be found, the order shall be served by posting it upon the property and by 4 weeks' publication in a newspaper in general circulation in the municipality.

AMENDED ANALYSIS

This bill clarifies the authority of local police officers to serve cease and desist orders against planning and zoning violations.

SENATOR FRANCOEUR: This amendment to HB 249 does three things, I don't believe that it is the wish of the legislature to provoke an incident during a cease and desist order being served. I believe that it is better to be served by a third party. This also solves the problem of the sheriff being the only one to serve by including local police and a constable in serving a cease and desist order. I hope that you will please vote for this amendment.

SENATOR BARNES: I am in total agreement with this amendment that Senator Francoeur has brought forward.

SENATOR MCCARLEY: I rise to speak in opposition to the amendment. The committee listened very carefully, and I think, that sometimes we get into our cars and drive over here and we forget that we have very responsible local people who enforce our laws and do their jobs very well. I think that this was an attempt to allow local people to make that choice. I think that they will make reasonable choices. I would encourage you not to support this amendment.

SENATOR HOLLINGWORTH: Senator Francoeur, I am at odds because I am not on that committee. What I am wondering is this, was your amendment brought about through discussion through the committee or did one of the towns request it or how did your amendment come about?

SENATOR FRANCOEUR: Thank you, Senator Hollingworth. After reviewing what was on the floor here today, and looking at it and having some experience with cease and desist orders in my town, and talking to a couple of other senators this morning, we felt that the person writing the cease and desist order and when delivering it to the individual, a lot of times that individual is not happy with what he or she is receiving. I don't think that it is the legislature's intent to put that person in

a position where he or she could be harmed. I think that by serving it through a third party, which would be a police officer, which would open up the current statute which only the sheriff can serve it, it would give the towns the ability to have somebody in-house where they don't have to pay or wait for the sheriff's department to do the service.

SENATOR HOLLINGWORTH: I am wondering, the people that are affected by this, have they seen this amendment, have they had a chance to respond to the committee to let them know whether they support it or not?

SENATOR FRANCOEUR: Senator Hollingworth, I do not sit on this committee either, and I could not answer that question for you.

SENATOR RUSSMAN: I just read the law as proposed to us this morning. This may well cost the towns money to hire someone to go and do that. That would be a concern to me. If a local building inspector or the code enforcement officer...

SENATOR DELAHUNTY (In the Chair): Senator Russman, are you speaking to the bill or the amendment?

SENATOR RUSSMAN: Well, the amendment does away with the opportunity... at least that is my interpretation of it. "A personal service may be made by a sheriff, deputy sheriff, local police officer, constable." Then the bill talked about being served by a building inspector, the code enforcement officer, the zoning administrator or these other people. So you are taking away the opportunity for the local building inspector, code enforcement officer and the zoning officer and they would do it at essentially no cost as part of their job. The sheriff and the deputy may well charge a service fee to serve the process.

SENATOR FRANCOEUR: Currently the only person that can do it is the sheriff's department, so that cost would already be incurred by the town. By opening it up to the local police officer, you wouldn't have to hire the sheriff's department.

SENATOR RUBENS: I sit on the Public Affairs Committee and was one of the two votes voting against the bill as proposed and argued in favor of the essence of this amendment here. The amendment would expand the number of people into including local people who could serve these documents. It was my feeling, and the two of us in the committee who felt this way, that it would be most appropriate for someone in the law enforcement function, to provide that document because it could be a tense situation, and we felt that, what Senator Francoeur testified, we didn't want to put someone not in law enforcement into that tense circumstance. So the amendment to this bill would save money for local communities. Thank you.

SENATOR COHEN: I am just curious, did any municipality come forth and say that they specifically wanted to get building inspectors and code enforcement officers out of there? Was that a request from any town or group of towns?

SENATOR RUBENS: This bill was not a particularly controversial bill. There were not many people who came to testify. There wasn't a lot of friction over it.

SENATOR COHEN: I can take that as a no? Thank you.

SENATOR RUBENS: You can take it as a no in both cases. Both arguments, for or against.

SENATOR J. KING: I have a question to any one of the committee, since it hasn't been answered yet. This includes them all. I noticed that you have in here, local police officer. Did the local police officers agree to do this? Take the city of Manchester, the size that they may have in a course of a week or two weeks. Is that an added duty that is being passed along to them without us knowing it and did they come in and say yes, we are for it or was there no one there to answer that? Did any police officer from any towns, come in and say that they were in favor of this? Secondly, did they determine what the cost would be, especially to larger cities, like in Manchester.

SENATOR BARNES: Senator King, I can answer half of your question. At least we are getting half way to where you want to be.

SENATOR J. KING: Okay.

SENATOR BARNES: A police officer, the former chief of police from Raymond, New Hampshire and also of Loudon, New Hampshire were the prime sponsors of this piece of legislation. That part of it I can answer, yes, there is a law enforcement officer with many years of service, as a police chief, introduced this piece of legislation.

SENATOR RUBENS: The committee records show only one person testifying on the bill and that is Bernie Waugh of the New Hampshire Municipal Association. So again, there was not a lot of controversy over the bill. Again, the amendment would expand the number of official persons who could serve these documents and would save local communities money because right now, they have to hire a sheriff who might be at the county seat and location, might have to travel a great distance, and pay that sheriff to provide this. So rather than paying that out of local funds, the community could use its own resources and its own personnel to provide that function. So it would clearly allow an option to local communities to save money in providing this function.

SENATOR J. KING: I am still concerned about the larger cities in the state of New Hampshire. I mean we have a police force in Manchester and whether they are in agreement with this and to what extent that they would be involved in doing this operation in a city the size of Manchester and some of the other larger cities? What would be the cost factor if there is? If they are taken away from the duties that they are doing now to do this somebody else is going to have to fill in somewhere along the line. I just can't see it, especially in the larger cities.

SENATOR RUBENS: This bill allows only local option. If the city determines that it would be best to do things as they do it now, via the sheriff, they could continue to do so, if they found that these expanded options would allow them to save money by using local internal resources, personnel resources, they can do that. There is no mandate here.

SENATOR J. KING: Who mandates whether who is going to do it? Is it the courts, is it the city of Manchester, for instance, or is it the county of Hillsboro?

SENATOR RUBENS: I think that the decision would be made by the locality as to which official entity would be chosen to serve the document. You are simply expanding the menu of options that a locality could use to serve these documents.

SENATOR GORDON: Senator Rubens, as usual, I am confused here. I am confused because there was testimony that we needed to be concerned about the safety of code enforcement officials who are serving

these things. Then I heard testimony that only the sheriff can serve these things. I guess that my question is, under current law, who is responsible for serving these things?

SENATOR RUBENS: The current law requires the sheriff to serve these documents. That is the present law. Again, this would expand the menu of law enforcement officials to include local officials who could serve these documents, which would probably allow for local costs savings; however, if those local costs savings were not apparent, they could continue to use, as they can now, the sheriff, to serve these documents.

SENATOR GORDON: The way that this amendment is worded, it says that "personal service may be made" so what that is saying is that you are not required to use the local police or a constable. You have the option of using those, if they are in agreement, and if in fact, you want to use them. Is that correct?

SENATOR RUBENS: Precisely.

SENATOR WHIPPLE: What this amendment does is, it doesn't add another option, it takes an option away from the proposed legislation that we have now. Currently, the zoning board or the zoning administrator in a community, evaluates the situation that they have before them. If it is a dangerous situation, obviously, they will make the decision at the local level, local control, to have a police officer or a sheriff serve the papers. If they feel that there is a danger to a code enforcement officer or the building inspector or the zoning administrator themselves, however, in most of these cases, these are very low key issues. Maybe someone has two cars that are unregistered or they have some other issue that they can't seem to get the parties to clean up so they go to the court and they get the authority from the court, and then in a low key way, they go out into the neighborhood and deliver the notice. This way, you don't have a sheriff's car or a police car driving up into a neighborhood where maybe the people may be embarrassed anyway that they are even being served. You have probably have an unmarked car go up to the house, either the zoning administrator or the building inspector in this case, would just notify them officially, that they have to do what the courts said and either remove the cars or cleanup or whatever they are supposed to do. I think that we ought to pass this, and that we ought to vote down the amendment, and then pass the bill as it was presented.

SENATOR GORDON: I am confused again. If I understand what Senator Whipple just said, is that these things are being served or can be served by the local enforcement officer. I thought that I understood the answer. Oh, only if the bill passes. Okay, so the intention of the underlying bill is to allow the local official to serve it. Is that correct?

SENATOR WHIPPLE: Yes.

SENATOR GORDON: So what this does is to give the community the option of having a law enforcement official serve it?

SENATOR WHIPPLE: Yes. The amendment takes away the authority of the code enforcement officer, zoning administrator or the building inspector from being able to serve these particular notices. The amendment says that you can do what you do now, have the sheriff do it or you can add a police officer or a councilor. That is what the amendment does. But it really reduces the local control available or the options available to the zoning office.

SENATOR GORDON: Thank you.

SENATOR PIGNATELLI: Senator Whipple, I think I've got it. The bill as it came over from the House, and they studied it there, I take it? Says that you can have the building inspector, the code enforcement officer, the zoning administrator, the sheriff, the deputy sheriff, the local police officer, the constable, serve these cease and desist orders?

SENATOR WHIPPLE: Correct.

SENATOR PIGNATELLI: The amendment reduces the number of people and takes away the building inspector, the code enforcement officer and the zoning administrator, thereby reducing a community's option of using these other officers to deliver the cease and desist order? Do I have it?

SENATOR WHIPPLE: You have it.

Senator Barnes moved the question.

Adopted.

Recess.

Out of recess.

Senator Fraser moved to have HB 249, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 249, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations.

HB 309, increasing the time for a local legislative body to act on a proposed interim zoning regulation. Public Affairs Committee. Vote: 6-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: This bill increases the time for a local legislative body to act on a proposed interim zoning regulation. In 1990, the legislature amended RSA 675:3, general zoning enactment procedure laws for towns. At the time, RSA 674:23 concerning growth management and interim regulations was overlooked. Currently, there is a forty-five day time limit after the posting of the public hearing within which the local legislative body shall respond. However, because RSA 675:3 requires posting a hearing 12 days prior to each public hearing, the expectation that a legislative body can respond to a proposed interim regulation within forty-five days is unreasonable. House Bill 309 is a housekeeping measure that provides a more reasonable time limit for local legislative bodies to act upon proposed interim regulations. The House Municipal and County Government Committee voted unanimously to pass HB 309. The Senate Public Affairs Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 315-L, expanding certain financial powers of village districts. Public Affairs Committee. Vote: 6-0. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: House Bill 315-L, expanding certain financial powers of village districts. House bill 315-L expands certain provisions regard-

ing the financial powers of the village districts to correspond with the financial powers currently afforded to towns. Though most changes in the bill are procedural, the bill also amends RSA 33:7, II by increasing aggregate principal amount of notes from 20 to 30 percent of the total tax levy during the preceding financial year. House Bill 315 merely increases the amount of money accessible to the village district, allowing districts to operate more efficiently. This bill unanimously passed the House Municipal and County Government committee and the Senate Public Affairs Committee. I urge the full Senate to vote in similar fashion.

Adopted.

Senator Barnes offered a floor amendment.

1997-0886s

08/01

Floor Amendment to HB 315-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT expanding the financial powers of village districts and repealing state law governing the water department of the town of Lisbon to accommodate the transfer of the duties of the board of water commissioners to the board of selectmen adopted by the Lisbon town meeting.

Amend the bill by replacing all after section 4 with the following:

5 Purpose. The purpose of sections 6 and 7 of this act is to effectuate a vote taken by the legislative body of the town of Lisbon at the 1997 annual meeting to authorize and direct the board of selectmen to take all necessary actions in order to vest management, control, and direction of the separate Lisbon water department of the town of Lisbon in the board of selectmen. The Lisbon water department was established through legislative action in 1967, 553. Therefore, approval of the town's actions and repeal of 1967, 553 by the general court is necessary to effectuate the vote of the legislative body of the town of Lisbon.

6 Dissolution of Lisbon Water Department. The Lisbon water department is dissolved and all of its tangible and intangible assets including, but not limited to, all real estate and personal property are vested in the town of Lisbon. The board of selectmen of the town of Lisbon is vested with all of the management, control, and direction of the assets which was formerly vested in the commissioners of the Lisbon water department under 1967, 553.

7 Repeal. 1967, 553, relative to the Lisbon water department is repealed.

8 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill expands certain provisions regarding the financial powers of village districts to correspond with the financial powers towns have.

The bill also repeals state law governing the water department of the town of Lisbon to accommodate the transfer of the duties of the board of water commissioners to the board of selectmen adopted by the Lisbon town meeting.

SENATOR BARNES: I do have an amendment that I would like to introduce. I hope that you all have copies. I would like to defer to Senator Fred King to talk about this amendment. It is in his district and he has good knowledge of what it is all about.

SENATOR F. KING: The amendment allows the town of Lisbon, and they voted at their most recent town meeting, to take the control of the water system and to give it back to the selectmen. In 1967 they voted to set up a separate water district. The town meeting voted this year to dissolve the water district and return the authority to the board of selectmen. So I would ask that you support this floor amendment to HB 315.

Floor amendment adopted.

Ordered to third reading.

HB 343-L, relative to authority by governmental entities over driveways and other accesses to public ways. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-0804s

01/09

Amendment to HB 343-LOCAL

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Continuing Authority Over Existing Accesses.
Amend RSA 236:13 by inserting after paragraph V the following new paragraph:

The commissioner of transportation or planning board shall retain continuing jurisdiction over the adequacy and safety of every existing driveway, entrance, exit, and approach to a highway, whether or not such access was constructed or installed pursuant to a permit under this section, and, unless the access is a public highway, the owners of property to which the access is appurtenant shall have continuing responsibility for the adequacy of the access and any grades, culverts, or other structures pertaining to such access, whether or not located within the public right of way. If any such access is or becomes a potential threat to the integrity of the highway or its surface, ditches, embankments, bridges, or other structures, or a hazard to the safety of the traveling public, by reason of siltation, flooding, erosion, frost action, vegetative growth, improper grade, or the failure of any culvert, traffic control device, drainage structure, or any other feature, the commissioner of transportation or planning board or their designee may issue an order to the landowner or other party responsible for such access to repair or remove such hazardous condition and to obtain any and all permits required therefor. The order shall describe the hazard, prescribe what corrective action or alteration in the location or configuration of such access shall be required, and set a reasonable time within which the action shall be completed. Such an order shall be sent by certified mail, and shall be enforceable to the same extent as a permit issued under this section. If the order is not complied with within the time prescribed, the commissioner or planning board or their designee may cause to be taken whatever action is necessary to protect the highway and the traveling public, and the owner or other responsible party shall be civilly liable to the state or municipality for its costs in taking such action.

SENATOR WHIPPLE: This bill 1) Clarifies the authority to remove stone walls or fences that are within or at the boundary of a public right of way and 2) declares that the commissioner of transportation or appropriate planning board, shall have continuing authority over driveways and other access to public ways. Under HB 343, owners of private driveways are responsible for continuous maintenance of culverts, ditches, and any driveway connections with local roads. As amended, HB 343 also clarifies that it is the responsibility of the landowner or other responsible party to

obtain any and all permits necessary to complete removal or repair work. No one opposed the bill during the hearing. The committee recommends unanimously, that the bill be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 392, changing references to the "BOCA Basic Building Code" to "BOCA National Building Code." Public Affairs Committee. Vote: 5-0. Ought to pass with amendment, Senator McCarley for the committee.

1997-0798s

01/08

Amendment to HB 392

Amend the title of the bill by replacing it with the following:

AN ACT changing references to the "BOCA Basic Building Code" to "BOCA National Building Code" and relative to incorporating certain codes by reference.

Amend the bill by inserting after section 8 the following and renumbering the original section 9 to read as 10:

9 New Subparagraphs; Codes Added. Amend RSA 674:52, I by inserting after subparagraph (f) the following new subparagraphs:

(g) The CABO One and Two Family Dwelling Code, as published by the Council of American Building Officials.

(h) The NFPA 1 Fire Prevention Code, as published by the National Fire Protection Association.

AMENDED ANALYSIS

This bill changes references to the "BOCA Basic Building Code" to "BOCA National Building Code." The bill makes certain technical changes in references and specifies the date when certain rules took effect. The bill also adds certain building codes to the law allowing municipalities to incorporate such codes by reference.

SENATOR MCCARLEY: House Bill 392, changing references to the "BOCA Basic Building Code" to "BOCA National Building Code." Requested by the Department of Safety. This bill also allows the commissioner of safety to amend as necessary the BOCA code and the National Electric Code. The amendment passed by the Senate Public Affairs Committee allows municipalities to adopt by reference, the Council of American Building Officials (CABO) One and Two Family Dwelling Code. Currently, RSA 674:52 does not specifically list the CABO codes, an omission that prohibits municipalities from adopting the CABO codes by reference. CABO codes are user-friendly and are currently referred to by many municipalities. No one opposed the bill during the hearing. The committee recommends this bill ought to pass as amended.

SENATOR F. KING: Senator McCarley, where it speaks about allowing the commissioner to make amendments, can I assume that the commissioner, when those amendments are being made, that it will go through the 541 process?

SENATOR MCCARLEY: I don't recall that coming up directly, so I hesitate to say that you should absolutely assume that. I guess that I would have assumed, but I don't know that we addressed it in the committee, specifically, Senator King. That is my very truthful answer. I don't know if any other committee members recall anything that came up on it. Senator King, could you repeat your question one more time for everyone to hear?

SENATOR F. KING: My question is, this bill allows the commissioner, presumably the commissioner of the department of safety to amend the BOCA building code and we all know that the BOCA building code is a very important document, but it is a very detailed document. My question is, when the commissioner, if and when the commissioner amends the document, will the document have to go through the 541 administrative rule process for review by the legislative committee? That is my question.

SENATOR MCCARLEY: I understand the question, but hesitate to say absolutely, because we didn't touch on it. My assumption certainly would have been that, now that I serve on that committee with you, particularly, Senator King, but I can't absolutely tell you relative to the testimony.

SENATOR WHIPPLE: I am not sure if this is what you are looking for, Senator King, but on line 20, page two of the bill, it says, "that the commissioner shall adopt rules under RSA 541:A relative to" and then it follows a list. Page two, line twenty-one.

SENATOR F. KING: Thank you, Senator Whipple, that answers my question.

Amendment adopted.

Ordered to third reading.

SB 166-L, relative to ensuring proper payment of municipal registration permit fees. Transportation Committee. Vote: 7-0. Inexpedient to legislate, Senator Russman for the committee.

SENATOR RUSSMAN: On this bill, SB 166, this was a bill that dealt with tractor trailer trucks and the registration of them in municipalities in an effort for municipalities to perhaps get a little extra income, but after the public hearing was held, the town that was in question, and the Wal Mart Group, they worked out a compromise making the bill no longer necessary. Therefore, we would urge you to vote inexpedient to legislate as recommended by the committee.

Committee report of inexpedient to legislate is adopted.

HB 123, relative to reduced speed limits in school zones during school openings and closings. Transportation Committee. Vote: 7-0. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: This bill has to do with reduced speed limits in speed zones in the school areas. What has happened is that the way that the statutes are written when you get a ticket, if there is a staggered school time or what-have-you, staggered sessions, it only applies to one session and not both, therefore, the tickets are being thrown out. This corrects it to make sure that the speed zones within the school districts apply if there is more than one school session going on. The committee recommends unanimously passage of this bill.

Adopted.

Ordered to third reading.

HB 150-FN, relative to the unlawful alteration of temporary motor vehicle registration plates. Transportation Committee. Vote: 7-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 150 was a request of the Goffstown Police Department and their local prosecuting attorney. Currently, there

is no statutory authority for the police to deal with someone who fraudulently alters the paper license plates that are issued when someone first purchases an automobile. Over the years, the police have found that many people alter these plates, especially the expiration date. House Bill 150 would make such an offense a violation. This bill is in line with similar offenses such as altering inspection stickers. A duplicate plate that is made because the original paper plate was altered. The committee unanimously recommends this bill as ought to pass. Thank you.

Adopted.

Ordered to third reading.

SENATOR PODLES: Mr. President and Senators, I wish to inform you of the Senate status of a bill from last year. It was in the Judiciary Committee. House Bill 1549 passed the House and then the Senate heard the bill and sent it to the Supreme Court requesting an opinion on the constitutionality of the bill. Since then, the bill has been tabled. On January 24, 1997 the Supreme Court made its decision. The court ruled that the bill would be unconstitutional; therefore, no further action is necessary and the bill is dead.

TAKEN OFF THE TABLE

Senator D. Wheeler moved to have **SB 194-FN-A**, establishing the safe youth fund to assist families in providing care and supervision for school-age youth and making an appropriation therefor, taken off the table.

Adopted.

SB 194-FN-A, establishing the safe youth fund to assist families in providing care and supervision for school-age youth and making an appropriation therefor.

Question is on the committee report of ought to pass.

SENATOR K. WHEELER: Senator D. Wheeler was very gracious to move to take this off the table when he and I and Representative Robert Wheeler were all in the House together, there was one memorable occasion when all three of us spoke and I said if we had three buttons to push, we each probably would have pushed a different one, but it is nice that we have agreed on this. I appreciate the hard work of the all of the senators to enable this to become off the table and I hope that you will act favorably upon it. I will just tell you about the amendment.

Adopted.

Senator K. Wheeler offered a floor amendment.

1997-0911s

04/02

Floor Amendment to SB 194-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT relative to the age of child day care providers homes, and allowing school districts to transport school-age children between schools and before-and-after-school programs.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Requirements for Child Care Providers.

Amend RSA 170-E:4 by inserting after paragraph II the following new paragraph:

III. Any child day care provider in any child care home or program receiving moneys from the department of health and human services or department of education shall be 18 years of age or older.

2 New Section; Transportation Between Schools and Before and After School Child Day Care Programs. Amend RSA 189 by inserting after section 6-a the following new section:

189:6-b Transportation Between Schools and Before-and-After-School Programs. To achieve maximum utilization of available before-and-after-school programs for school-age children, school districts shall be permitted to transport pupils between schools and legally-operating before-and-after-school programs upon the approval of the school district in the same manner as the school budget is adopted by that district. Such approval shall continue until revoked in the same manner.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires child care providers in certain subsidized child care programs to be at least 18 years of age. It also allows school districts to transport pupils between schools and before-and-after-school programs.

SENATOR K. WHEELER: The floor amendment that is being passed out removes all of the provisions that would have been required for an expenditure of funds, but keeps in two provisions that are important for the care for our children, before and after school. The bill was in response to the notion to the fact that with the changes in our welfare law we'll have increasing numbers of children who will be cared for outside of the home. So if you will look at the amendment, section III is an important provision. It states that any child daycare provider who is receiving money from the Department of Health and Human Services or the Department of Education, shall be 18 years of age or older. Currently, we do have providers as young as 14 receiving money from the Department of Health and Human Services. This does not mean that a 14 year old could not work in a daycare facility, but they cannot be the primary person receiving the funds. That is one part. The other part is even more important. That is the transportation part. This would enable school districts, upon the approval of the school district voting in the same manner in which they adopt the school budget, to say that they would allow their buses to take these school age children somewhere other than to home. In other words, to a legally operating before or after school program. Currently, our statutes do not allow them to do that. This is important enabling legislation. It has been requested by advocates for children and from school districts. I hope that you will look favorably upon it. Thank you.

SENATOR D. WHEELER: Just briefly, I wanted the Senate to know that the Wheelers have acceded from the position of non concurrence and asked that the Senate pass the bill with the following amendment.

Floor amendment adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 117, relative to Persian Gulf War bonus payments. (Rep. Kenney, Carr 6)

HB 171, Repealing the citizens advisory committee which advises the pesticide control board. (Rep. Babson, Carr 5; Rep. Hall, Hills 20)

HB 202, relative to the sale of air guns to minors and the use of air guns by minors and prohibiting the furnishing of arms to persons under 17. (Rep. Steere, Ches 11)

HB 203, relative to driving after a revocation or suspension of license. (Rep. Dolan, Rock 12; Rep. Knowles, Straf 11; Rep. Dodge, Rock 4; Rep. Christie, Rock 22)

HB 211, defining the terms "psychological injury" and related terms under the child protection act. (Rep. Hess, Merr 11; Rep. I Pratt, Ches 5; Rep. C. Moore, Merr 19; Rep. Richardson, Ches 12; Sen. Podles, Dist 16)

HB 236-FN, to allow a person who is being stalked to obtain a protective order. (Rep. Nowe, Rock 3)

HB 273-FN, increasing the age that child passenger restraints are required from 12 years of age to 18 years of age. (Rep. Cloutier, Sull 8; Rep. Gleason, Rock 13; Rep. M. Whalley, Merr 5; Rep. Copenhaver, Graf 10; Rep. Pilliod, Belk 3; Sen. Squires, Dist 12; Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Sen. Pignatelli, Dist 13)

HB 276, removing primary petition filing requirements for candidates who do not voluntarily accept campaign spending limitations. (Rep. Pepino, Hills 40)

HB 291, relative to the use of the terms "native," "local," and "our own" when referring to farm products. (Rep. Owen, Merr 6)

HB 294-LOCAL, relative to the placement of off-premises business directional signs in municipalities which prohibit such advertising devices. (Rep. G. Chandler, Carr 1; Rep. Mock, Carr 3; Sen. Johnson, Dist 3)

HB 327, relative to pledges for loans, finance charge disclosure statements, debt adjusters, and consumer credit transactions. (Rep. Hunt, Ches 10)

HB 328-LOCAL, relative to hour limitations on voting. (Rep. Flanagan, Rock 14)

HB 329, clarifying the applicability of the fireman's rule. (Rep. DePecol, Ches 14)

HB 334, establishing guidelines for assessing the eligibility of certain providers for third party reimbursement. (Rep. B. Gage, Rock 26)

HB 352, modifying the definitions of "agriculture" and "farming" for certain purposes and adding a definition of "short rotation tree fiber farming." (Rep. Davis, Coos 1; Rep. L. Pratt, Coos 4; Sen. Gordon, Dist 2)

HB 365, providing that communications made during family mediation shall be privileged. (Rep. Wallin, Merr 15)

HB 368, establishing the honorary position of artist laureate of the state of New Hampshire. (Rep. Wallin, Merr 15)

HB 370, updating and making technical corrections in certain banking laws. (Rep. Hunt, Ches 10;)

HB 378, regulating the practice of acupuncture. (Rep. J. Bradley, Carr 8; Rep. Copenhaver, Graf 10; Rep. Morello, Hills 38; Rep. French, Merr 3; Rep. Asselin, Hills 47; Sen. Rubens, Dist 5; Sen. Russman, Dist 19; Sen. K. Wheeler, Dist 21; Sen. Larsen, Dist 15; Sen. Cohen, Dist 24)

HB 381, relative to public recreation and park areas in municipalities. (Rep. Tufts, Rock 20)

HB 389, relative to the water protection assistance program within the office of state planning. (Rep. Patten, Carr 9; Rep. L. Foster, Hills 10; Rep. Metzger, Ches 13)

HB 404, establishing a committee to study providing universal catastrophic health coverage by establishing a statewide catastrophic risk pool. (Rep. Allen, Hills 1)

HB 421, amending the law against discrimination to prohibit discrimination on account of a person's sexual orientation. (Rep. McCann, Straf 11; Rep. DeChane, Straf 6; Rep. Keans, Straf 16; Rep. Ham, Graf 4; Rep. Frechette, Rock 33; Sen. Cohen, Dist 24)

HB 429, charging the advisory council on unemployment compensation with the task of studying the issue of unemployment compensation as it relates to the contingent work force and low wage workers. (Rep. Mears, Coos 7; Rep. Hawkinson, Coos 7; Rep. McGovern, Rock 35; Rep. Keans, Straf 16; Sen. K. Wheeler, Dist 21)

HB 446, prohibiting candidates of one party from accepting the nomination of another party. (Rep. Arnold, Hills 20; Rep. M. Brown, Merr 10)

HB 452, establishing a legislative oversight committee on telecommunications restructuring and relative to approval by the public utilities commission of tariffs for new telephone services. (Rep. J. Bradley, Carr 8; Rep. MacGillivray, Hills 21;)

HB 453, relative to the bank commissioner's regulation of sales finance companies and retail sellers. (Rep. Hunt, Ches 10)

HB 455-FN-LOCAL, relative to a preliminary breath test for alcohol concentration. (Rep. Christie, Rock 22; Rep. Dolan, Rock 12; Rep. Knowles, Straf 11; Rep. Dodge, Rock 4; Rep. Simmons, Rock 25; Sen. Barnes, Dist 17; Sen. Hollingworth, Dist 23)

HB 469, relative to the rules of the board of dental examiners. (Rep. Copenhaver, Graf 10)

HB 470, implementing recommendations of the Centers for Disease Control and Prevention relative to the laws requiring a prescription to possess hypodermic needles and modifying the drug paraphernalia laws applying to syringes. (Rep. Copenhaver, Graf 10; Rep. O'Keefe, Rock 21; Rep. C. Moore, Merr 19)

HB 478, relative to workers' compensation compliance statements and making a technical correction. (Rep. Donald Welch, Hills 48; Rep. Mears, Coos 7; Sen. F. King, Dist 1; Sen. J. King, Dist 18)

HB 483, relative to regulation of securities. (Rep. Flanagan, Rock 14)

HB 495, prohibiting registered lobbyists from serving on the legislative ethics committee. (Rep. McCann, Straf 11; Rep. Cobbin, Graf 11; Rep. Hilliard, Straf 14)

HB 502-LOCAL, placing limitations on warrant articles at special meetings. (Rep. Burke, Hills 15; Rep. Bartlett, Belk 6; Rep. Dodge, Rock 4; Rep. Kobel, Rock 6; Rep. McGough, Hills 18; Sen. Rubens, Dist 5; Sen. Roberge, Dist 9; Sen. D. Wheeler, Dist 11; Sen. Francoeur, Dist 14; Sen. Johnson, Dist 3)

HB 511-FN-LOCAL, requiring health insurers to provide coverage for certain supplies, services, and education necessary in the treatment of diabetes. (Rep. Copenhaver, Graf 10; Rep. Ziegler, Belk 5; Rep. Amidon, Hills 9; Rep. Schotanus, Sull 3; Sen. Barnes, Dist 17)

HB 517-FN, relative to aggravated felonious sexual assault. (Rep. Knowles, Straf 11)

HB 527, classifying smoke bombs as permissible fireworks. (Rep. Hunter, Hills 7; Rep. Fenton, Hills 24; Rep. Rubin, Rock 25)

HB 528-LOCAL, relative to municipal water, gas and electric utilities. (Rep. J. Bradley, Carr 8; Rep. Below, Graf 13; Rep. Guay, Coos 6; Rep. MacGillivray, Hills 21; Sen. Johnson, Dist 3; Sen. Hollingworth, Dist 23; Sen. J. King, Dist)

HB 532-FN, relative to the transportation of alcoholic beverages by a minor. (Rep. Christie, Rock 22; Rep. Dolan, Rock 12;; Rep. Dodge, Rock 4; Rep. Simmons, Rock 25; Sen. Barnes, Dist 17; Sen. Hollingworth, Dist 23; Sen. Pignatelli, Dist 13)

HB 540, establishing a committee to study ways in which state agencies can be encouraged to assist small businesses to develop practices that comply with state law. (Rep. D. Lawton, Belk 1)

HB 544, relative to dwellings which extend over public waters. (Rep. Dickinson, Carr 2; Rep. Blanchard, Rock 34; Rep. M. Whalley, Merr 5; Sen. Patenaude, Dist 7)

HB 554, relative to damages in suits brought by administrators of an estate. (Rep. Keans, Straf 16;)

HB 580-FN, providing that the proper place for filing security interests on manufactured housing is in the office where mortgages or real estate are filed or recorded. (Rep. L. Foster, Hills 10)

HB 611-FN, making state securities laws comply with the National Securities Markets Improvement Act. (Rep. Flanagan, Rock 14)

HB 622-FN, relative to legislative approval of settlements of court claims against the state. (Rep. Kurk, Hills 5; Rep. Hess, Merr 11)

HB 624, subjecting certain payments made to public employees upon resignation, discharge, or retirement to the right-to-know law. (Rep. Malcolm, Rock 22; Rep. G. Katsakiores, Rock 13)

HB 628, relative to an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, establishing a committee to develop a proposal and review responses, and requiring review of any agreement or contract by the capital budget overview committee. (Rep. E. Smith, Ches 6; Rep. Boutin, Hills 37; Rep. G. Chandler, Carr 1; Rep. W. Williams, Graf 3; Sen. Johnson, Dist 3; Sen. Rubens, Dist 5)

HB 632-LOCAL, abolishing the water well board and transferring its authority to the department of environmental services. (Rep. Emerton, Hills 7; Rep. Dickinson, Carr 2)

HB 650, relative to limited liability companies. (Rep. Mercer, Hills 27; Sen. Gordon,)

HB 653-LOCAL, relative to address numbers on streets and highways and relative to penalties for violations of certain planning and zoning laws. (Rep. LaRose, Hills 27; Rep. J. Foster, Hills 33; Rep. Lefebvre, Hills 31)

HB 662, revising the laws relative to the use of dealer plates. (Rep. Bartlett, Belk 6; Rep. Laflam, Belk 2; Rep. R. Foster, Carr 10; Rep. Whittemore, Merr 13; Rep. Teschner, Graf 5; Sen. Blaisdell, Dist 10; Sen. Larsen, Dist 15; Sen. Johnson, Dist 3; Sen. Fraser, Dist 4)

HB 672-FN-LOCAL, relative to lowering the allowable alcohol concentration for persons under 21 operating OHRVs. (Rep. Christie, Rock 22; Rep. Dodge, Rock 4; Rep. Dolan, Rock 12; Rep. Knowles, Straf 11; Sen. Hollingworth, Dist 23; Sen. Podles, Dist)

HB 693, establishing a house committee to examine water quality issues. (Rep. Martin, Hills 34; Rep. P. Bradley, Coos 6; Rep. Merritt, Straf 8; Sen. Russman, Dist 19; Sen. Johnson, Dist 3)

HB 696-FN-LOCAL, authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief when the court determines that a motor vehicle was used to abet the commission of criminal mischief. (Rep. Hansen, Hills 2; Rep. Dolan, Rock 12; Rep. Chase, Graf 6)

HB 701-LOCAL, granting a municipality alternatives to accepting a tax deed to the property when the property owner is tax delinquent. (Rep. Hager, Merr 18)

HB 711, relative to post-termination commissions. (Rep. Klemm, Rock 28;)

HB 713, relative to the names of foreign limited partnerships, and eliminating an annual notice requirement for limited liability partnerships. (Rep. Flanagan, Rock 14)

HB 716-FN, relative to economic development and retention rates and special contracts. (Rep. Below, Graf 13; Rep. MacGillivray, Hills 21; Rep. J. Bradley, Carr 8)

HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, the underground utility damage prevention system, and the 911 system. (Rep. J. Bradley, Carr 8, Rep. MacGillivray, Hills 21; Sen. Johnson, Dist 3; Sen. Hollingworth, Dist 23)

HB 735-FN, adding certain conduct to that which constitutes aggravated felonious sexual assault and felonious sexual assault. (Rep. Knowles, Straf 11)

HB 764-FN-LOCAL, relative to a person subject to a domestic violence petition applying to purchase a firearm. (Rep. Pepino, Hills 40; Rep. Knowles, Straf 11)

HB 770-FN, relative to blood testing in the instance of motor vehicle fatalities and other instances. (Rep. Musler, Straf 6)

HB 773-FN, relative to intentional interference with child custody and visitation. (Rep. J. McCarthy, Rock 24)

HB 787-FN, requiring the executive council to hold public hearings on judicial appointments. (Rep. Teschner, Graf 5; Rep. Dube, Rock 16; Rep. Arndt, Rock 27; Rep. Adams, Merr 9; Rep. Holden, Hills 14; Sen. Gordon, Dist 2; Sen. Podles, Dist 16; Sen. Pignatelli, Dist 13; Sen. Hollingworth, Dist 23)

HB 799, regulating the sale of insurance by financial institutions. (Rep. Herman, Hills 13; Rep. Crosby, Merr 20)

HB 805, relative to homestead rights and revocable trusts. (Rep. Mittelman, Hills 37; Sen. Fraser, Dist 4)

HB 809, establishing a committee to study the feasibility of bringing the New England Patriots to New Hampshire. (Rep. Hurt, Belk 4; Rep. Carson, Rock 29; Rep. Hunt, Ches 10; Rep. B. Moore, Rock 21; Sen. Gordon, Dist 2; Sen. Pignatelli, Dist 13; Sen. Cohen, Dist 24)

HCR 11, relative to the preservation and revitalization of New Hampshire's rail-based corridors of commerce. (Rep. G. Katsakiores, Rock 13; Rep. Whittemore, Merr 13; Rep. Ackerman, Hills 30; Sen. Russman, Dist 19; Sen. F. King, Dist 1)

HJR 2, urging the members of Congress to support and pass the Family Forestland Preservation Tax Act. (Rep. Schotanus, Sull 3; Rep. Dickinson, Carr 2; Rep. Royce, Ches 9; Sen. Russman, Dist 19; Sen. F. King, Dist 1)

HJR 4, urging the United States Congress and the Federal Energy Regulatory Commission to cooperate with state plans to restructure the electric utility industry. (Rep. MacGillivray, Hills 21; Rep. J. Bradley, Carr 8; Rep. Below, Graf)

HJR 5, urging the United States Congress and the United States Environmental Protection Agency to make certain changes in the Clean Air Act which would result in more cost effective air pollutant emission reductions. (Rep. MacGillivray, Hills 21; Rep. Kaen, Straf 7; Rep. J. Bradley, Carr 8; Rep. Below, Graf 13; Sen. Russman, Dist 19;)

HJR 7, urging the United States Congress and the Veterans Administration to maintain adequate health care services for New Hampshire veterans. (Rep. Root, Graf 8; Rep. Fields, Hills 18)

CACR 10, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute. (Rep. G. Brown, Straf 17; Rep. Peter. Cote, Hills)

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 117 - CACR 10 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 117, relative to Persian Gulf War bonus payments. (Rep. Kenney, Carr 6; Public Affairs)

HB 171, repealing the citizens advisory committee which advises the pesticide control board. (Rep. Babson, Carr 5; Rep. Hall, Hills 20; Environment)

HB 202, relative to the sale of air guns to minors and the use of air guns by minors and prohibiting the furnishing of arms to persons under 17. (Rep. Steere, Ches 11; Judiciary)

HB 203, relative to driving after a revocation or suspension of license. (Rep. Dolan, Rock 12; Rep. Knowles, Straf 11; Rep. Dodge, Rock 4; Rep. Christie, Rock 22; Transportation)

HB 211, defining the terms "psychological injury" and related terms under the child protection act. (Rep. Hess, Merr 11; Rep. I Pratt, Ches 5; Rep. C. Moore, Merr 19; Rep. Richardson, Ches 12; Sen. Podles, Dist 16; Judiciary)

HB 236-FN, to allow a person who is being stalked to obtain a protective order. (Rep. Nowe, Rock 3; Judiciary)

HB 273-FN, increasing the age that child passenger restraints are required from 12 years of age to 18 years of age. (Rep. Cloutier, Sull 8; Rep. Gleason, Rock 13; Rep. M. Whalley, Merr 5; Rep. Copenhagen, Graf 10; Rep. Pilliod, Belk 3; Sen. Squires, Dist 12; Sen. K. Wheeler, Dist 21; Sen. Roberge, Dist 9; Sen. Pignatelli, Dist 13; Transportation)

HB 276, removing primary petition filing requirements for candidates who do not voluntarily accept campaign spending limitations. (Rep. Pepino, Hills 40; Public Affairs)

HB 291, relative to the use of the terms "native," "local," and "our own" when referring to farm products. (Rep. Owen, Merr 6; Public Affairs)

HB 294-LOCAL, relative to the placement of off-premises business directional signs in municipalities which prohibit such advertising devices. (Rep. G. Chandler, Carr 1; Rep. Mock, Carr 3; Sen. Johnson, Dist 3; Transportation)

HB 327, relative to pledges for loans, finance charge disclosure statements, debt adjusters, and consumer credit transactions. (Rep. Hunt, Ches 10; Banks)

HB 328-LOCAL, relative to hour limitations on voting. (Rep. Flanagan, Rock 14; Public Affairs)

HB 329, clarifying the applicability of the fireman's rule. (Rep. DePecol, Ches 14; Executive Departments and Administration)

HB 334, establishing guidelines for assessing the eligibility of certain providers for third party reimbursement. (Rep. B. Gage, Rock 26; Insurance)

HB 352, modifying the definitions of "agriculture" and "farming" for certain purposes and adding a definition of "short rotation tree fiber farming." (Rep. Davis, Coos 1; Rep. L. Pratt, Coos 4; Sen. Gordon, Dist 2; Wildlife and Recreation)

HB 365, providing that communications made during family mediation shall be privileged. (Rep. Wallin, Merr 15; Judiciary)

HB 368, establishing the honorary position of artist laureate of the state of New Hampshire. (Rep. Wallin, Merr 15; Executive Departments and Administration)

HB 370, updating and making technical corrections in certain banking laws. (Rep. Hunt, Ches 10; Banks)

HB 378, regulating the practice of acupuncture. (Rep. J. Bradley, Carr 8; Rep. Copenhagen, Graf 10; Rep. Morello, Hills 38; Rep. French, Merr 3; Rep. Asselin, Hills 47; Sen. Rubens, Dist 5; Sen. Russman, Dist 19; Sen. K. Wheeler, Dist 21; Sen. Larsen, Dist 15; Sen. Cohen, Dist 24; Executive Departments and Administration)

HB 381, relative to public recreation and park areas in municipalities. (Rep. Tufts, Rock 20; Wildlife and Recreation)

HB 389, relative to the water protection assistance program within the office of state planning. (Rep. Patten, Carr 9; Rep. L. Foster, Hills 10; Rep. Metzger, Ches 13; Environment)

HB 404, establishing a committee to study providing universal catastrophic health coverage by establishing a statewide catastrophic risk pool. (Rep. Allen, Hills 1; Insurance)

HB 421, amending the law against discrimination to prohibit discrimination on account of a person's sexual orientation. (Rep. McCann, Straf 11; Rep. DeChane, Straf 6; Rep. Keans, Straf 16; Rep. Ham, Graf 4; Rep. Frechette, Rock 33; Sen. Cohen, Dist 24; Internal Affairs)

HB 429, charging the advisory council on unemployment compensation with the task of studying the issue of unemployment compensation as it relates to the contingent work force and low wage workers. (Rep. Mears, Coos 7; Rep. Hawkinson, Coos 7; Rep. McGovern, Rock 35; Rep. Keans, Straf 16; Sen. K. Wheeler, Dist 21; Insurance)

HB 446, prohibiting candidates of one party from accepting the nomination of another party. (Rep. Arnold, Hills 20; Rep. M. Brown, Merr 10; Public Affairs)

HB 452, establishing a legislative oversight committee on telecommunications restructuring and relative to approval by the public utilities commission of tariffs for new telephone services. (Rep. J. Bradley, Carr 8; Rep. MacGillivray, Hills 21; Executive Departments and Administration)

HB 453, relative to the bank commissioner's regulation of sales finance companies and retail sellers. (Rep. Hunt, Ches 10; Banks)

HB 455-FN-LOCAL, relative to a preliminary breath test for alcohol concentration. (Rep. Christie, Rock 22; Rep. Dolan, Rock 12; Rep. Knowles, Straf 11; Rep. Dodge, Rock 4; Rep. Simmons, Rock 25; Sen. Barnes, Dist 17; Sen. Hollingworth, Dist 23; Transportation)

HB 469, relative to the rules of the board of dental examiners. (Rep. Copenhagen, Graf 10; Executive Departments and Administration)

HB 470, implementing recommendations of the Centers for Disease Control and Prevention relative to the laws requiring a prescription to possess hypodermic needles and modifying the drug paraphernalia laws applying to syringes. (Rep. Copenhagen, Graf 10; Rep. O'Keefe, Rock 21; Rep. C. Moore, Merr 19; Public Institutions, Health and Human Services)

HB 478, relative to workers' compensation compliance statements and making a technical correction. (Rep. Donald Welch, Hills 48; Rep. Mears, Coos 7; Sen. F. King, Dist 1; Sen. J. King, Dist 18; Insurance)

HB 483, relative to regulation of securities. (Rep. Flanagan, Rock 14; Banks)

HB 495, prohibiting registered lobbyists from serving on the legislative ethics committee. (Rep. McCann, Straf 11; Rep. Cobbin, Graf 11; Rep. Hilliard, Straf 14; Internal Affairs)

HB 502-LOCAL, placing limitations on warrant articles at special meetings. (Rep. Burke, Hills 15; Rep. Bartlett, Belk 6; Rep. Dodge, Rock 4; Rep. Kobel, Rock 6; Rep. McGough, Hills 18; Sen. Rubens, Dist 5; Sen. Roberge, Dist 9; Sen. D. Wheeler, Dist 11; Sen. Francoeur, Dist 14; Sen. Johnson, Dist 3; Public Affairs)

HB 511-FN-LOCAL, requiring health insurers to provide coverage for certain supplies, services, and education necessary in the treatment of diabetes. (Rep. Copenhagen, Graf 10; Rep. Ziegra, Belk 5; Rep. Amidon, Hills 9; Rep. Schotanus, Sull 3; Sen. Barnes, Dist 17; Insurance)

HB 517-FN, relative to aggravated felonious sexual assault. (Rep. Knowles, Straf 11; Judiciary)

HB 527, classifying smoke bombs as permissible fireworks. (Rep. Hunter, Hills 7; Rep. Fenton, Hills 24; Rep. Rubin, Rock 25; Executive Departments and Administration)

HB 528-LOCAL, relative to municipal water, gas and electric utilities. (Rep. J. Bradley, Carr 8; Rep. Below, Graf 13; Rep. Guay, Coos 6; Rep. MacGillivray, Hills 21; Sen. Johnson, Dist 3; Sen. Hollingworth, Dist 23; Sen. J. King, Dist 18; Executive Departments and Administration)

HB 532-FN, relative to the transportation of alcoholic beverages by a minor. (Rep. Christie, Rock 22; Rep. Dolan, Rock 12;; Rep. Dodge, Rock 4; Rep. Simmons, Rock 25; Sen. Barnes, Dist 17; Sen. Hollingworth, Dist 23; Sen. Pignatelli, Dist 13; Transportation)

HB 540, establishing a committee to study ways in which state agencies can be encouraged to assist small businesses to develop practices that comply with state law. (Rep. D. Lawton, Belk 1; Economic Development)

HB 544, relative to dwellings which extend over public waters. (Rep. Dickinson, Carr 2; Rep. Blanchard, Rock 34; Rep. M. Whalley, Merr 5; Sen. Patenaude, Dist 7; Environment)

HB 554, relative to damages in suits brought by administrators of an estate. (Rep. Keans, Straf 16; Judiciary)

HB 580-FN, providing that the proper place for filing security interests on manufactured housing is in the office where mortgages or real estate are filed or recorded. (Rep. L. Foster, Hills 10; Banks)

HB 611-FN, making state securities laws comply with the National Securities Markets Improvement Act. (Rep. Flanagan, Rock 14; Banks)

HB 622-FN, relative to legislative approval of settlements of court claims against the state. (Rep. Kurk, Hills 5; Rep. Hess, Merr 11; Internal Affairs)

HB 624, subjecting certain payments made to public employees upon resignation, discharge, or retirement to the right-to-know law. (Rep. Malcolm, Rock 22; Rep. G. Katsakiores, Rock 13; Public Affairs)

HB 628, relative to an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, establishing a committee to develop a proposal and review responses, and requiring review of any agreement or contract by the capital budget overview committee. (Rep. E. Smith, Ches 6; Rep. Boutin, Hills 37; Rep. G. Chandler, Carr 1; Rep. W. Williams, Graf 3; Sen. Johnson, Dist 3; Sen. Rubens, Dist 5; Wildlife and Recreation)

HB 632-LOCAL, abolishing the water well board and transferring its authority to the department of environmental services. (Rep. Emerton, Hills 7; Rep. Dickinson, Carr 2; Executive Departments and Administration)

HB 650, relative to limited liability companies. (Rep. Mercer, Hills 27; Sen. Gordon, Dist 2; Economic Development)

HB 653-LOCAL, relative to address numbers on streets and highways and relative to penalties for violations of certain planning and zoning laws. (Rep. LaRose, Hills 27; Rep. J. Foster, Hills 33; Rep. Lefebvre, Hills 31; Executive Departments and Administration)

HB 662, revising the laws relative to the use of dealer plates. (Rep. Bartlett, Belk 6; Rep. Laflam, Belk 2; Rep. R. Foster, Carr 10; Rep. Whittemore, Merr 13; Rep. Teschner, Graf 5; Sen. Blaisdell, Dist 10; Sen. Larsen, Dist 15; Sen. Johnson, Dist 3; Sen. Fraser, Dist 4; Transportation)

HB 672-FN-LOCAL, relative to lowering the allowable alcohol concentration for persons under 21 operating OHRVs. (Rep. Christie, Rock 22; Rep. Dodge, Rock 4; Rep. Dolan, Rock 12; Rep. Knowles, Straf 11; Sen. Hollingworth, Dist 23; Sen. Podles, Dist 16; Transportation)

HB 693, establishing a house committee to examine water quality issues. (Rep. Martin, Hills 34; Rep. P. Bradley, Coos 6; Rep. Merritt, Straf 8; Sen. Russman, Dist 19; Sen. Johnson, Dist 3; Internal Affairs)

HB 696-FN-LOCAL, authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief when the court determines that a motor vehicle was used to abet the commission of criminal mischief. (Rep. Hansen, Hills 2; Rep. Dolan, Rock 12; Rep. Chase, Graf 6; Transportation)

HB 701-LOCAL, granting a municipality alternatives to accepting a tax deed to the property when the property owner is tax delinquent. (Rep. Hager, Merr 18; Public Affairs)

HB 711, relative to post-termination commissions. (Rep. Klemm, Rock 28; Judiciary)

HB 713, relative to the names of foreign limited partnerships, and eliminating an annual notice requirement for limited liability partnerships. (Rep. Flanagan, Rock 14; Banks)

HB 716-FN, relative to economic development and retention rates and special contracts. (Rep. Below, Graf 13; Rep. MacGillivray, Hills 21; Rep. J. Bradley, Carr 8; Economic Development)

HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, the underground utility damage prevention system, and the 911 system. (Rep. J. Bradley, Carr 8, Rep. MacGillivray, Hills 21; Sen. Johnson, Dist 3; Sen. Hollingworth, Dist 23; Executive Departments and Administration)

HB 735-FN, adding certain conduct to that which constitutes aggravated felonious sexual assault and felonious sexual assault. (Rep. Knowles, Straf 11; Judiciary)

HB 764-FN-LOCAL, relative to a person subject to a domestic violence petition applying to purchase a firearm. (Rep. Pepino, Hills 40; Rep. Knowles, Straf 11; Judiciary)

HB 770-FN, relative to blood testing in the instance of motor vehicle fatalities and other instances. (Rep. Musler, Straf 6; Transportation)

HB 773-FN, relative to intentional interference with child custody and visitation. (Rep. J. McCarthy, Rock 24; Public Institutions, Health and Human Services)

HB 787-FN, requiring the executive council to hold public hearings on judicial appointments. (Rep. Teschner, Graf 5; Rep. Dube, Rock 16; Rep. Arndt, Rock 27; Rep. Adams, Merr 9; Rep. Holden, Hills 14; Sen. Gordon, Dist 2; Sen. Podles, Dist 16; Sen. Pignatelli, Dist 13; Sen. Hollingworth, Dist 23; Internal Affairs)

HB 799, regulating the sale of insurance by financial institutions. (Rep. Herman, Hills 13; Rep. Crosby, Merr 20; Banks)

HB 805, relative to homestead rights and revocable trusts. (Rep. Mittelman, Hills 37; Sen. Fraser, Dist 4; Banks)

HB 809, establishing a committee to study the feasibility of bringing the New England Patriots to New Hampshire. (Rep. Hurt, Belk 4; Rep. Carson, Rock 29; Rep. Hunt, Ches 10; Rep. B. Moore, Rock 21; Sen. Gordon, Dist 2; Sen. Pignatelli, Dist 13; Sen. Cohen, Dist 24; Economic Development)

HCR 11, relative to the preservation and revitalization of New Hampshire's rail-based corridors of commerce. (Rep. G. Katsakiores, Rock 13; Rep. Whittemore, Merr 13; Rep. Ackerman, Hills 30; Sen. Russman, Dist 19; Sen. F. King, Dist 1; Economic Development)

HJR 2, urging the members of Congress to support and pass the Family Forestland Preservation Tax Act. (Rep. Schotanus, Sull 3; Rep. Dickinson, Carr 2; Rep. Royce, Ches 9; Sen. Russman, Dist 19; Sen. F. King, Dist 1; Environment)

HJR 4, urging the United States Congress and the Federal Energy Regulatory Commission to cooperate with state plans to restructure the electric utility industry. (Rep. MacGillivray, Hills 21; Rep. J. Bradley, Carr 8; Rep. Below, Graf 13; Executive Departments and Administration)

HJR 5, urging the United States Congress and the United States Environmental Protection Agency to make certain changes in the Clean Air Act which would result in more cost effective air pollutant emission reductions. (Rep. MacGillivray, Hills 21; Rep. Kaen, Straf 7; Rep. J. Bradley, Carr 8; Rep. Below, Graf 13; Sen. Russman, Dist 19; Environment)

HJR 7, urging the United States Congress and the Veterans Administration to maintain adequate health care services for New Hampshire veterans. (Rep. Root, Graf 8; Rep. Fields, Hills 18; Public Institutions, Health and Human Services)

CACR 10, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute. (Rep. G. Brown, Straf 17; Rep. Peter. Cote, Hills 32; Internal Affairs)

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 157, adding the name of Martin Luther King, Jr. to Civil Rights Day.

ANNOUNCEMENTS

SENATOR PIGNATELLI (Rule #44): Mr. President and Senators, I wanted to let you know if you don't already know, that we have a budding television star in our presence. The senator who sits to my right, Senator Squire's from district 12, many of you know, who was a surgeon before he joined the Senate. As part of his work, he saved the life of a 15 year old child who had been shot through the heart. Because of this, he will appear tonight, on the television show Vital Signs with Robert Urich. That is on at nine o'clock on ABC. So I encourage you all to watch it if you are up that late.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that we be in recess for

Enrolled Bill reports and amendments and House messages and introduction and referral of bills, and when we adjourn, we adjourn until Tuesday, April 1, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 6, relative to real estate appraisers.

SB 47-FN, continuing the marital guardian ad litem recovery program in the unit of cost containment, office of the commissioner of administrative services.

SB 102-FN, relative to the possession of certain weapons in the commission of a violent crime.

HB 105, allowing an extension of time limits upon a showing of good cause for holding an adjudicatory hearing in certain delinquency cases.

HB 123, relative to reduced speed limits in school zones during school openings and closings.

SB 149, prohibiting state agencies managing federal programs from exceeding their statutory authority in placing restrictions on activities of the private sector.

HB 150-FN, relative to the unlawful alteration of temporary motor vehicle registration plates.

SB 162-FN-A-L, relative to the acquisition of a certain piece of property in Piermont, New Hampshire and making an appropriation therefor.

HB 165, establishing a committee to study withdrawal from cooperative school districts.

SB 169-FN, relative to a college tuition savings plan.

SB 176-FN, relative to late payment of the legacies and successions tax.

SB 180-FN-A, relative to the maintenance, enhancement, and rehabilitation of local rural airport service and making an appropriation therefor.

SB 194-FN-A, relative to the age of child day care providers homes, and allowing school districts to transport school-age children between schools and before-and-after- school programs.

SB 197-FN, relative to final dispositional orders in child protection cases.

SB 213-FN-A, establishing a fund for loans to rehabilitate class III railroads and cog railroads and making an appropriation therefor.

HB 219-L, repealing provisions relative to literacy instruction and the committee to study literacy and remedial instruction.

HB 222-L, relative to pooled risk management programs. Insurance Committee.

HB 230, establishing a committee to study the school building aid system.

HB 309, increasing the time for a local legislative body to act on a proposed interim zoning regulation.

HB 315-L, expanding certain financial powers of village districts.

HB 321, correcting a reference to the American Podiatry Association.

HB 331, adopting the uniform foreign depositions law.

HB 338, repealing certain requirements relative to the duty to deliver a copy of process to prisoners.

HB 343-L, relative to authority by governmental entities over driveways and other accesses to public ways.

HB 392, changing references to the "BOCA Basic Building Code" to "BOCA National Building Code."

HB 678, relative to the expansion of veterans' home services.

Senator J. King moved that the business of the day being completed that the Senate now adjourn until Tuesday, April 1, 1997 at 10:00 a.m.

Adopted.

In recess.

Out of recess.

Adjournment.

April 3, 1997

The Senate met at 10:00.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

Top of the ninth. Two men out. The home team is three runs down and a long way from home. That is probably how you feel some of the time. Baseball players and politicians have a lot in common. In fact, I have a friend in your business who named one of his sons after his favorite politician and another after his favorite baseball player. Last night, the Red Sox, despite being in that desperate last minute mess, won their season opener by a combination of knowing when to swing, when to let a bad pitch pass by and when to just stand there and let the ball hit you - all without panicking just because it was the ninth inning. That same wisdom applies to making good public policy and stopping bad bills from passing. Just remember that a walk is just as goods a spectacular base hit and that even getting struck by the pitcher will get you where you want to go if you can stand the pain. Thank God, my politician friend, or perhaps it was his wife, had some of that wisdom, otherwise their daughter would have ended up with some name like Yogi Berra Barnes!

Lord of both the first pitch of the game as well as those late inning opportunities, may the members of this Senate and all who work in this place and all who lobby here, remember why it is that they have stepped onto this field and Who it is that is really throwing the pitches around here. Don't throw them too many curves, Lord, and give them the wisdom to know when to swing and when to just stand there, that we who hired them may be as happy at the end of the game as the Red Sox were last night.

Amen

Senator D. Wheeler led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 24, relative to prescriptions for certain controlled drugs.

SB 133, relative to the task force on perinatal chemical dependency.

COMMITTEE REPORTS

SB 204-FN-A-L, increasing the tobacco tax and specifying uses for the revenue. Education Committee. Vote 4-2. Ought to pass with amendment, Senator Rubens for the committee.

1997-0757s

08/09

Amendment to SB 204-FN-A-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT increasing tobacco tax and specifying uses for the revenue and making an appropriation to the postsecondary education commission for postsecondary tuition incentive grants.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Designated Revenue; Kindergarten. Amend RSA 6:12, I by inserting after subparagraph (ooo) the following new subparagraph:

(ppp) Money received under RSA 78:7-d, I, which shall be credited to the kindergarten aid and alternative kindergarten aid fund established in RSA 198:15-q.

2 Definition of "Tobacco Products" for Purposes of Tobacco Tax. Amend RSA 78:1, XIV to read as follows:

XIV. "Tobacco products" means cigarettes [~~and~~], *snuff*, smokeless tobacco, *products containing tobacco, and tobacco in any other form, except cigars*.

3 Tax Increased. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [~~25~~] **41** cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

4 New Section; Designated Revenue. Amend RSA 78 by inserting after section 7-c the following new section:

78:7-d Designated Revenue. Beginning July 1, 1997 and on every July 1 thereafter, the treasurer shall distribute the moneys collected under this chapter, including any interest accrued, in the following manner:

I. To the fund established in RSA 198:15-q, all moneys up to an allocation of \$500 per student but not to exceed in any fiscal year a total distribution of \$5,000,000 to fund kindergarten aid and alternative kindergarten aid. If \$5,000,000 is insufficient for a \$500 per student allocation, then the per student allocation shall be prorated.

II. To the state board of education, all money's necessary to fully fund catastrophic aid payments in addition to the funding provided for in RSA 186-C:18, if the requirements of paragraph I have been met.

III. To the state board of education, all moneys up to a total distribution of \$3,000,000 in each fiscal year for the New Hampshire school improvement incentive grant program under RSA 193-C:10, if the requirements of paragraphs I and II have been met.

IV. Any moneys not distributed under paragraphs I-III shall be deposited in the fund established in RSA 284:21-j for funding state aid to education.

5 New Section; New Hampshire School Improvement Incentive Grant Program. Amend RSA 193-C by inserting after section 9 the following new section:

School Improvement

193-C:10 New Hampshire School Improvement Incentive Grant Program.

I. There is established a grant program for school districts achieving the greatest gains in district-wide assessment scores, to be known as the New Hampshire school improvement incentive grant program. The median pupil assessment and the year over year change in median assessment for each district shall be determined by the department of education. Assessments for charter school pupils shall be included with the district with which the charter school has a contract to operate. District year over year median assessments shall be numerically ranked and those districts among the top 10 percent of rankings shall be eligible for an incentive grant. Grants shall be awarded to eligible districts beginning December 1, 1997 and each December 1, thereafter, at the rate of \$250 per enrolled pupil. Districts may use the grants for any educational purpose.

II. For the purposes of this section, the department of justice shall conduct spot audits of the assessment test-taking, scoring, and grant award program to ensure accuracy and to detect and deter fraud. A district where there has been any proven incidence of fraud engaged in for the purpose of affecting assessment test scores shall be ineligible to receive grants until a method to prevent recurrence satisfactory to the attorney general has been implemented by the district.

III. Grants shall be made from funds available under RSA 78:7-d, III. If the moneys available are insufficient to fully fund the grants under paragraph I of this section, the grants shall be prorated on a per pupil basis.

6 New Section; Kindergarten Aid and Alternative Kindergarten Aid Funding. Amend RSA 198 by inserting after section 15-p the following new section:

198:15-q Funding. There is hereby created in the state treasury a kindergarten aid and alternative kindergarten aid fund which shall be nonlapsing. The fund is continually appropriated to the department of education to be expended for the purposes of this subdivision in the amounts provided in RSA 198:15-l, I and 198:15-n, IV. Moneys in the fund may be invested as provided by law and interest received on such investment shall be credited to the fund. At the close of the each fiscal year, moneys in the fund not currently needed to meet the obligations of the department of education under this chapter shall be deposited with the state treasurer to the general fund as unrestricted revenue.

7 Appropriation. The sum of \$1,700,000 is appropriated to the postsecondary education commission for the biennium ending June 30,

1999, for postsecondary tuition incentive grants. This amount is in addition to any other sums appropriated to the commission. The governor is authorized to draw a warrant for such sum out of any money in the treasury not otherwise appropriated.

8 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill increases the tobacco tax by 16 cents and makes the tax applicable to all tobacco products except cigars. The revenue is designated to fund kindergarten aid and alternative kindergarten aid, catastrophic aid to special education, and a newly established school improvement incentive grant program. The surplus is then distributed as foundation aid.

The bill appropriates funds to the postsecondary education commission for postsecondary tuition incentive grants.

Recess.

Out of recess.

Senator Barnes moved to have **SB 204-FN-A-L**, increasing the tobacco tax and specifying uses for the revenue, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 204-FN-A-L, increasing the tobacco tax and specifying uses for the revenue.

SB 215-FN-L, increasing the cigarette tax and appropriating funds for education. Education Committee. Vote: 5-1. Inexpedient to legislate, Senator Gordon for the committee.

SENATOR GORDON: The Senate Education Committee had two pieces of legislation before us concerning educational funding and a cigarette tax. Senate Bill 215 and SB 204. The committee is bringing forth one bill or has brought forth one bill, SB 204, which makes this piece of legislation unnecessary. The committee has recommended that this bill be inexpedient to legislate.

Senator Larsen moved to have **SB 215-FN-L**, increasing the cigarette tax and appropriating funds for education, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 215-FN-L, increasing the cigarette tax and appropriating funds for education.

HB 516-FN, increasing the fuel oil discharge cleanup fund fee. Environment Committee. Vote: 6-0. Ought to pass with amendment, Senator Cohen for the committee.

1997-0873s

03/09

Amendment to HB 516-FN

Amend RSA 146-E:6, I as inserted by section 3 of the bill by replacing it with the following:

I. The fund shall be available to owners of on-premise-use facilities, owners of land upon which on-premise-use facilities are located, and bulk storage facilities as defined in this chapter. The oil fund disbursement board may adopt rules for administering disbursements from the fund using the same rulemaking process and authorities established in RSA

146-D:5, I, including the development of additional eligibility criteria. Owners of bulk storage facilities shall be liable to the fund for initial cleanup costs in the manner described in RSA 146-D:6, II. ***Owners of on-premise-use facilities shall be liable to the fund for the initial \$100 of cleanup costs at each facility owned, to the extent such amount is expended from the fund, or for such lesser amount as is expended.***

AMENDED ANALYSIS

This bill increases the fee assessed on fuel oil imported into the state.

This bill provides for the transfer of \$1,000,000 from the oil pollution control fund to the fuel oil discharge cleanup fund, which shall be returned from a portion of the revenue collected from fees assessed on fuel oil imported into this state.

This bill makes owners of on-premise-use facilities liable for the initial \$100 of cleanup costs expended by the fuel oil discharge cleanup fund.

SENATOR COHEN: As amended by the House, HB 516 increases the fee assessed on fuel oil imported into the state from .002 to .005 per gallon. Testimony at the public hearing indicated that the money is not coming in as fast as the applications are for reimbursement. Increasing this fee will adequately fund the cleanup claims. Depending upon the extent of the leak, cleanup costs can be anywhere from five thousand dollars to one hundred thousand dollars. This could potentially be a devastating financial burden for the homeowner. The Fuel Oil Discharge Cleanup Fund has been successful as an environmental cleanup and insurance program. The bill also transfers one million dollars from the Oil Pollution Control Fund to the Fuel Oil Discharge Cleanup Fund to address the existing backlog of reimbursements. This money will be returned from a portion of the revenue from the fee assessed on imported fuel oil. The Senate amendment changes the deductible for the home owner from five hundred dollars as had been amended by the House to one hundred dollars. The committee felt that the one hundred dollar deductible would encourage more reporting and cleanups. Currently, there is no deductible. The Environment Committee recommends ought to pass as amended. Thank you.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 698, relative to the oil discharge and disposal cleanup fund, the fuel oil discharge cleanup fund, and the motor oil discharge cleanup fund. Environment Committee. Vote: 6-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: House Bill 698 addresses three statutes, RSA 146:D, 146:E and 146:F dealing with oil discharges. It provides for the ability to transfer eligibility for reimbursement to new owners of petroleum facilities that have been closed in place or which have been fiscally removed in accordance to the DES requirements and where cleanup has not yet been completed. This bill allows real estate transfers to occur more efficiently, and cleanups to occur more smoothly. With the passage of this bill, sites will be cleaned up and the stations can be re-used rather than taking a raw piece of land. The Environment Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 704, relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture beverages. Environment Committee. Vote: 6-0. Ought to pass with amendment, Senator Pignatelli for the committee.

1997-0872h

10/08

Amendment to HB 704

Amend the title of the bill by replacing it with the following:

AN ACT relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture bottled water.

Amend the bill by replacing sections 3-6 with the following:

3 Use of Approved Source of Water Required. Amend RSA 143:16 to read as follows:

143:16 Bottle Sterilization and Sanitation; Water Source. All bottles used in the manufacture of beverages shall be cleaned and sterilized in such manner as may be provided in the rules adopted under this chapter. All materials[~~including water,~~] used in the manufacture of beverages shall be pure and wholesome and shall be stored, handled, transported and kept in such manner as to protect them from spoilage, contamination, and unwholesomeness. ***Manufacturers of bottled water shall only utilize a source of water for which a permit has been issued by the department of environmental services in accordance with RSA 485:3, XI.*** All products shall comply as to composition, labeling, conditions of manufacture, transportation, storage, handling, and sale with existent statutory provisions relating thereto and with rules adopted under this chapter.

4 New Subparagraph; Safe Drinking Water Act; Duty Added. Amend RSA 485:1, II by inserting after subparagraph (f) the following new subparagraph:

(g) Approve sources of water used in the manufacture of bottled water.

5 New Paragraph; Definition Added; Source of Water. Amend RSA 485:1-a by inserting after paragraph XV the following new paragraph:

XV-a. "Source of water" means a spring, artesian well, spa, geyser, drilled well, public water supply, or other source, of any water used in the manufacture of bottled water, which has been inspected and approved by the department.

6 New Paragraph; Rulemaking; Sources of Water for Manufacture of Bottled Water. Amend RSA 485:3 by inserting after paragraph X the following new paragraph:

XI. The commissioner shall adopt rules, pursuant to RSA 541-A, specifying the water quality standards and other criteria and procedures for obtaining a permit to use a source of water for the manufacture of bottled water.

AMENDED ANALYSIS

This bill creates a provisional license for manufacturers of beverages and requires that the sources of water used in the manufacture of bottled water be approved by the department of environmental services.

SENATOR PIGNATELLI: House Bill 704, relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture beverages, this bill is approved by the Department of Environmental Services. The bill's intent is to develop,

monitor and protect bottled water to the same degree afforded water sources that serve the public water systems. The bill further provides that manufacturers shall only utilize a source of water in the manufacturing of a beverage for which a permit has been issued by the Department of Environmental Services. The intent of this bill is to simply provide ongoing protections for bottled water. The Environment Committee recommends this bill as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

SB 207-FN, relative to a digital signature act. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass with amendment, Senator Rubens for the committee.

1997-0794s
01/09

Amendment to SB 207-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; New Hampshire Digital Signature Act. Amend RSA by inserting after chapter 294-C the following new chapter:

CHAPTER 294-D

NEW HAMPSHIRE DIGITAL SIGNATURE ACT

294-D:1 Short Title. This chapter shall be known and may be cited as the New Hampshire digital signature act.

294-D:2 Purposes; Rules of Construction; Variation by Agreement.

I. This chapter shall be construed consistent with what is commercially reasonable under the circumstances and shall effectuate the following purposes:

(a) To facilitate commerce by means of computerized communications.

(b) To enable and foster the reliable authentication of documents in computer form.

(c) To minimize the incidence of electronic forgeries.

(d) To give legal effect to the general import of relevant standards for authentication of computerized messages such as X.509 of the International Telecommunication Union, Federal Information Processing Standard 186, and American National Standards X9.30, X9.31 and X12.58.

(e) To establish, in coordination with multiple states, uniform rules regarding the authentication and reliability of electronic messages.

II. Persons whose duties are prescribed by this chapter may more precisely define those duties by agreement among themselves.

294-D:3 Definitions. In this chapter:

I. "Asymmetric cryptosystem" means an algorithm or series of algorithms which provide a secure key pair.

II. "Certificate" means a computer-based record which:

(a) Identifies the certification authority.

(b) Identifies the subscriber.

(c) Contains the subscriber's public key.

(d) Is digitally signed by the certification authority.

III. "Certification authority" means a person who issues a certificate.

IV. "Digital signature" means a type of electronic signature that transforms a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine:

(a) Whether the transformation was created using the private key that corresponds to the signer's public key.

(b) Whether the initial message has been altered since the transformation was made.

V. "Electronic signature" means any letters, characters, or symbols, manifested by electronic or similar means executed or adopted by a party with an intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing.

VI. "Key pair" means a private key and its corresponding public key in an asymmetric cryptosystem, under which the public key verifies a digital signature the private key creates.

294-D:4 Verification of Digital Signature; Certificates. The secretary of state shall be the certification authority for state agencies, boards, and instrumentalities, and shall promulgate regulations, orders and guidelines for such organizations to utilize for the purpose of implementing control processes and procedures to insure adequate integrity, security, confidentiality, and auditability of transactions with and involving state agencies conducted using electronic commerce. The secretary of state shall also promulgate regulations concerning procedures for state certification of private certification authorities. The secretary of state may impose reasonable fees to cover the expenses associated with administering this section. The provisions of RSA 541-A shall not apply to this section.

294-D:5 Effect of Electronic Signatures.

I. Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.

II. In assessing whether a digital signature was executed or adopted with respect to a record by a particular person, the trier of fact may consider any relevant information and circumstances, including whether the signature is unique to the signer, unauthorized persons had the opportunity to create the signature, the signature is capable of verification, the signature is invalidated if the record is altered, and the reliability of the method used to create, store, and communicate the signature was appropriate for the purposes for which it was created.

2 New Subparagraph; Exemption Added. Amend RSA 541-A:21, I by inserting after subparagraph (t) the following new subparagraph:

(u) RSA 294-D:4, relative to digital signatures.

3 Repeal. RSA 294-D:4, relative to verification of digital signatures, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2000.

II. The remainder of this act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill establishes the New Hampshire Digital Signature Act which is to be administered by the secretary of state. The bill allows the secretary of state to implement the law pursuant to its own procedures which are exempt from RSA 541-A.

SENATOR RUBENS: Senate Bill 207-FN, relative to a digital signature act. This bill enables reliable authentication of documents in computer form through digital signatures, which is a transformation of a message by using asymmetric cryptosystem. Asymmetric cryptosystems use algorithms or a series of algorithms to provide a secure key pair. A secure key pair is the marriage of a public and private key by which the public

key verifies the digital signature created by the private key. An electronic signature under SB 207-FN has the same force and effect as written signatures. Under section D:4 of the bill, Verification of Digital Signature; Certificates, which will be sunsetted as of July 1, 2000, the secretary of state shall be the certification authority for state agencies and boards. To explain exactly what happens when a digital signature is used... An individual can register and receive from the secretary of state, a public key that can be used to verify message authors and authenticate message contents. The author of a message will send two versions of a message — one in plain text and one in encrypted form. The recipient of the message will then use a public key to decode the encrypted form. By comparing the plain text version and the unencrypted version, the recipient is able to verify the author and the intended content of the message. Again, digital signatures will verify the author and the intended content of the message. Fifteen states, led by the state of Utah, have already enacted somewhat similar general, enabling legislation. General legislation is crucial in this particular situation because the potential of the information superhighway has not been fully realized. It would be a shame to hinder such technology so soon in the game. Senate Bill 207-FN is an integral step towards reducing paperwork, costs, and promoting real commerce on the information superhighway. Lastly, because the original bill was severely amended, the fiscal note will also be amended. It was reported to the ED & A committee that there will be thirty thousand dollars fiscal impact on the operating budget to cover hardware, software, and one full time employee for one half year. As I understand it, the fiscal note will be officially amended once the full Senate votes SB 207. I urge the full Senate to vote as did the committee - ought to pass as amended.

SENATOR BLAISDELL: Senator Rubens, the bill itself sets an undeterminable amount of fiscal impact. You said that it would be thirty thousand dollars?

SENATOR RUBENS: It will be presented in Senate Finance and then they will precisely determine the fiscal impact. The thirty thousand dollars in year one, seventy thousand dollars in year two is the proposal.

SENATOR BLAISDELL: Thank you very much. Send it on down and we will check it out.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 36, relative to incarcerated convicted persons receiving workers' compensation payments. Insurance Committee. Split report; Vote: 4-4, Inexpedient to legislate, Senator Blaisdell for the committee. Split report; Vote: 4-4, Ought to pass, Senator Francoeur for the committee.

SENATOR BLAISDELL: There is a split report on this bill SB 36. The problem with this bill is that if a person is injured at work and therefore is entitled to workers' compensation until that injury no longer prevents them from working. Many issues arise when you begin to consider taking this benefit away from someone just because they are incarcerated. I don't think that the judge said to the person, "I sentence you to ten years in jail and I take away your workmens' compensation." I think most importantly why this bill should not pass and should be inexpedient, is because you have to consider the family of the person who is incarcerated. The family of the inmate may be using the workers' compen-

sation benefits to pay for rent or heat while the bread winner of the family is in jail. You just can't take that benefit away and expect that no harm will come of it. Half of the committee recommends that this bill be inexpedient to legislate. I think that there are many other things that the inmate pays for while he is in jail. The banks now, I believe the testimony was, that a bank now can sometimes even draw from that account to pay the mortgage on the home. What are we doing? We are taking something away from a prisoner and then taking the family of that prisoner on welfare. This is wrong legislation and I hope that you go along with four of us on the committee to make the bill inexpedient to legislate.

SENATOR FRANCOEUR: This bill does one thing, it stops an individual from receiving workers' compensation wages while incarcerated. It was brought to my attention that there were individuals who received indemnity benefits while in jail. This bill stops the wage portion of worker's compensation and still leaves the medical section intact so that the insurance company is still responsible for the medical costs incurred with the accident. There are other states around us that stopped payment during incarceration and they include Maine, Massachusetts, Rhode Island and Vermont. Currently, social security even stops after one year during incarceration. Workers' compensation is to compensate for loss of earning capacity. When in jail, there is no earning capacity. I encourage you to vote ought to pass.

SENATOR FRASER: Mr. President, I voted with those who felt that this bill wasn't necessary. There was adequate testimony offered by the Department of Labor that this bill addresses a problem that doesn't really exist anymore. If this kind of legislation was brought forth ten years ago, then I would full heartily support it, but the commissioner of labor offered the idea that access to the prisoner and the ability to have that prisoner examined or to find out from the corrections agency to what capacity that prisoner has is available and that the corrections department and the department of labor work in consort to be sure that the benefits are not being taken away from them; by the same token, once they reach their working capacity, the benefits, like any other case, can be stopped on petition from the insurance company. I think that the testimony stated that in the last five years, only seven prisoners have been incarcerated who actually were receiving benefits. I don't think that there are any right now, but maybe there are. I think that maybe Senator Francoeur thought that there was someone, even now, that is incarcerated receiving benefits. It is not good legislation. It doesn't do anything. Those people, if we pass this legislation, if someone is unfortunate enough to be incarcerated, their family is going to have to go on welfare and that doesn't make a whole heck of a lot of sense. Thank you, Mr. President.

SENATOR PIGNATELLI: Senator Fraser, isn't it true that there is no general fund government money that goes out for workers' compensation payments? That these are payments that are made by someone's prior employer as part of their working, prior to them entering jail?

SENATOR FRASER: Almost without exception, Senator. The benefits are paid by the insurance company. As far I know, they did not appear in opposition. Also, I should say in support of this bill.

SENATOR PIGNATELLI: Thank you, Senator Fraser.

SENATOR FRANCOEUR: Senator Fraser, would you believe that two weeks ago, I had a call from an employer that had an individual who was

incarcerated, that could go back to light duty work, but can't because of the incarceration and is still required to pay the worker's compensation?

SENATOR FRASER: Senator, if you say that, I believe it.

SENATOR PATENAUE: Senator Fraser, isn't it true that if this bill is passed that it would not take away the medical benefits, it would only be taking away the compensation they would be receiving for lost wages? Do you think that it is fair that small employers and even large employers should have to pay for someone who is not available to work because they are incarcerated? Shouldn't the prisoner think of this before he committed the crime?

SENATOR FRASER: First of all, to answer your first question, Senator. It is absolutely correct. That the medical portion of the benefit would not be cut off. The second part of your question is simply this; as I tried to explain that today, access to the work capacity of a prisoner is quite available to the insurance company and if they feel that the prisoner has a work capacity, they can go to the department of labor as they would with any claim and have those benefits suspended. But as long as they have access to that information, I don't see that this bill necessary.

SENATOR HOLLINGWORTH: I would just like to add that the people who spoke in support of this bill were only the sponsors and that there were no businesses that were present. No one stepped forward to say that this was a serious problem out there. Secondly, those people who spoke in opposition to this piece of legislation were the Workers' Compensation Fund and the Corrections' Department that said that there is no problem and that this legislation was unnecessary. What they also testified is that currently, in the county courts, that right now, they do use that workers' fund money that comes in to pay for incarceration and other charges that they make against the prisoner, so that the prisons would be then losing the money that they are now getting. One of the clear problems with this piece of legislation is, that it doesn't determine what length incarceration is. Is it one day, is it one week or is it one year. It says that you will not be able to get workers' compensation so that it would create a tremendous problem for someone who was incarcerated for say, one day or one week. His funds would be cut off for how long? It says that if he is incarcerated. He doesn't get the workers' compensation. So those are clearly, the things that were testified too. Where there doesn't seem to be an outcry that any of us heard in the committee, to be passed, I support the committee's vote for inexpedient to legislate.

SENATOR FRANCOEUR: Senator Hollingworth, doesn't on line five of the bill, say that only during the period of incarceration, so if the individual is in jail one day, it would only be the one day?

SENATOR HOLLINGWORTH: That is right, but when they came from the Workers' Compensation Fund, they said that it was going to create a problem to cut off that payment and then it would have to be reinstated again and that is a problem during that incarceration. So you are going to create a tremendous amount of work for them to keep track of all of those individuals when there isn't a problem. If there is somebody... the prison said that there currently, there isn't a problem in this state. There may be in the other states that you mentioned, but in New Hampshire, currently, that is not a problem.

The question is on ought to pass.

A roll call was requested by Senator Francoeur.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Gordon, Johnson, Rubens, Patenaude, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

The following Senators voted No: Fraser, McCarley, Whipple, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 14 - Nays: 10

Committee report of ought to pass is adopted.

Ordered to third reading.

SB 50, relative to modifications in contracts concerning insurance company payout values. Insurance Committee. Vote: 5-0. Rereferred to committee, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, it was decided by the Insurance Committee that the provisions of this bill requiring insurance companies to obtain written permission before raising the payment value of an insurance policy. It could be accomplished through the rulemaking process. The committee recommends rereferring the bill to the Insurance Committee so that the committee will have a vehicle to address this issue for the next session that in the event that the rulemaking process is not pursued. We urge its adoption.

Committee report of rereferred is adopted.

SB 104, relative to rate setting for purposes of automobile insurance and homeowners insurance. Insurance Committee. Vote: 5-0. Ought to pass with amendment, Senator Squires for the committee.

1997-0874s

08/01

Amendment to SB 104

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Unfair Discrimination; Automobile and Homeowners Insurance. Amend RSA 417:4, VIII by inserting after subparagraph (f) the following new subparagraph:

(g) Charging a higher premium for private passenger automobile or homeowner insurance solely on the basis of information obtained from a credit rating or credit history.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill includes in the definition of unfair discrimination, under unfair methods, acts and practices in the business of insurance, the practice of charging a higher premium for private passenger automobile or homeowner insurance solely on the basis of information obtained from a credit rating or credit history.

SENATOR SQUIRES: Senate Bill 104 as amended simply states in statute that it is unfair to charge higher premiums for auto or homeowner insurance based on information from person's credit rating. These credit ratings have nothing to do with how a person drives or the value of a home, and therefore, should not be used to set premiums. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 111, relative to appeal of decisions of the public employee labor relations board. Insurance Committee. Vote: 5-1. Inexpedient to legislate, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: Senate Bill 111 would change the appeals process concerning the Employee Labor Relations Board by requiring the Supreme Court to reverse decisions of the board for specific reasons. The committee felt that requiring the Supreme Court to reverse decisions was onerous and that there are adequate provisions in place for repealing decisions of the board. The committee recommendation is inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 217, relative to control of accessory uses on private land, including aircraft takeoffs and landings. Internal Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0861s

03/09

Amendment to SB 217

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court finds that 1996, 218, which inserted paragraph V in RSA 674:16, has created confusion within the legislative bodies of certain municipalities regarding the authority of municipalities to regulate aircraft takeoffs and landings on private land. The general court finds that a repeal of the provisions of RSA 674:16, V will clarify the authority of such municipalities to proscribe, by local land use regulation, aircraft takeoffs and landings on private land. Allowing sufficient time prior to the effective date of reenactment of the provisions of RSA 674:16, V will also provide adequate notice of its pendency and an opportunity for municipalities to adopt appropriate zoning regulations.

2 New Paragraph; Accessory Uses; Aircraft Landings. Amend RSA 674:16 by inserting after paragraph V the following new paragraph:

VI. In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate and control accessory uses on private land. Unless specifically proscribed by local land use regulation, aircraft takeoffs and landings on private land by the owner of such land or by a person who resides on such land shall be considered a valid and permitted accessory use.

3 Repeal. RSA 674:16, V, relative to aircraft takeoffs and landings on private land, is repealed.

4 Plan. The department of transportation shall develop a plan for the regulation and inspection of privately owned aircraft landing facilities before January 1, 1998.

5 Effective Date.

I. Section 2 of this act shall take effect June 1, 1998.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill repeals and reenacts the express authority of a local legislative body in which there are located unincorporated towns or unorganized places to regulate and control accessory uses on private land. This bill repeals and reenacts the classification of aircraft takeoffs and land-

ings by an owner or resident as valid and permitted accessory uses unless specifically proscribed by local land use regulation. This bill also requires the department of transportation to develop a plan for the regulation and inspection of privately owned aircraft landing facilities.

SENATOR GORDON: This bill as amended, repeals the law that was enacted last year that defined aircraft takeoff and landings as accessory uses for private land. The committee felt that there was confusion about this law. The amendment will reinstate last year's law on January 1, 1998. This will give the towns a period of time to set their own municipal policy in regard to this matter. The bill also requires the Department of Transportation to develop a plan concerning private aircraft landing policies before January 1, 1998. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senators Danaïs, Francoeur and D. Wheeler are in opposition to SB 217.

CACR 13, RELATING TO: the governor's veto power. **PROVIDING THAT:** the governor shall have line item reduction and line item veto power of items in any bill making appropriations of money. Internal Affairs Committee. Vote: 4-3. Inexpedient to legislate, Senator J. King for the committee.

SENATOR J. KING: CACR 13, this bill gives the voters of the state of New Hampshire the right to vote on whether or not to give the governor a line item veto. Giving a governor a line item veto, even a good governor like we have now, Governor Shaheen, is nothing more than giving away the power of the legislative branch that balances the power of the governor. We shouldn't give the governor the ability to strike from the budget with one pen stroke, an item that the legislature has spent months crafting. The majority of the committee recommends this bill as inexpedient to legislate. I have been a very firm believer in not giving up the power of the legislature at any time.

SUBSTITUTE MOTION

Senator D. Wheeler moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR D. WHEELER: I think that CACR 13 is a tool to allow every issue in this chamber to stand on its own merit. Congress has seen fit to pass a line item veto for the President. I think that it is a tool that we need at the state level to get a handle on spending. I understand that it would shift a little bit of the power to the executive branch, and I think that it is something that, we, as Senators, ought to do. Sometimes we think a little too highly of ourselves. I think that it puts a decision on spending items when the good gets mixed with the bad, on the governor, who has a much higher profile. I am not ashamed to give this power to a democrat governor, if that were to be the case or a republican governor or any governor. It would put the highlight on those issues that sometimes don't stand for themselves. I brought my handy-dandy chart here, to show that state government spending after being adjusted for inflation, and per capita, has risen 58 % in the last eight years of this chart. I think that we need the line item veto tool to get a handle on spending and to make sure that we keep control over taxes.

Question is on the substitute motion of ought to pass.

A 3/5 vote is necessary.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

The following Senators voted No: McCarley, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 16 - Nays: 8

Adopted.

CACR 22, RELATING TO: changing the minimum age requirement for state senator from 30 to 25. **PROVIDING THAT:** persons at least 25 years of age shall be eligible to be elected to the state senate. Internal Affairs Committee. Vote: 7-0. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: This concurrent resolution lets the people of New Hampshire decide on the important question of whether or not to lower the age to serve in the state Senate from age 30 to age 25.

Senator D. Wheeler moved to have **CACR 22, RELATING TO:** changing the minimum age requirement for state senator from 30 to 25. **PROVIDING THAT:** persons at least 25 years of age shall be eligible to be elected to the state senate, laid on the table.

Adopted.

LAI D ON THE TABLE

CACR 22, RELATING TO: changing the minimum age requirement for state senator from 30 to 25. **PROVIDING THAT:** persons at least 25 years of age shall be eligible to be elected to the state senate.

HB 383, requiring the nomination and election of the secretary of state and treasurer to be without regard to party affiliation of the candidate. Internal Affairs Committee. Vote: 7-0. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: This bill requires that the nomination and election of the secretary of state and treasurer to be made without regard to party affiliation of the candidate. This allows each party to nominate the best person qualified for the position no matter what party that person belongs to. The committee unanimously recommends that this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 71-FN, clarifying applicable penalties for violations of statutes or ordinances in cases in which the penalty is not specified by statutes and clarifying the right to a jury trial in cases in which a civil penalty is imposed for a violation. Judiciary Committee. Majority report; Vote: 6-2, Ought to pass, Senator Hollingworth for the committee. Minority report; Vote: 2-6, Inexpedient to legislate, Senator Wheeler for the committee.

SENATOR D. WHEELER: I am going to recede from my position of inexpedient to legislate at this time, and after the motion of ought to pass passes, I would like to offer a floor amendment while the bill is on second reading.

SENATOR HOLLINGWORTH: This bill was requested by the New Hampshire Municipal Association. This was an official policy adopted by the towns and cities of New Hampshire at their legislative policy conference in September of 1996. The bill is an attempt to modify the enforcement of local ordinances and codes so that they are clear and consistent so that the cases brought to the court for violations don't get hung up in procedural issues. The two procedural glitches addressed in this bill were discovered back in 1995 when the New Hampshire Bar Association, the committee on Enforcement of Local Ordinances brought it to the attention of the Municipal Association. There are two parts of the bill. The first part of the bill, would bring it into conformity with the violation so that all laws that are not carrying a penalty with them would carry a violation. There are several of them out on the books. The second part, would allow them to bring a case into court to request a trial by jury. It allows that there has to be an amount of a fine for more than fifteen hundred dollars. Currently, it would allow somebody who had a violation of five hundred dollars to bring a court trial and we knew that was not the intent of the legislature and that was a glitch, and an unfortunate loophole. I know that the amendment is going to be brought in to take away the first part of the bill, which is the violation section. I just heard about that while I was in my seat. Unfortunately, I was not made aware that there was a floor amendment. While I understand why Senator Wheeler is bringing this in, his concern is that it doesn't state specifically what violations, what they are going to be changed to. Clearly, our towns have the right to expect, when they go to court, that they are going to be able to have those violations enforced. Some of the ones that are the problem, affect any of the towns that you might have many tourists in, my community and Laconia and several of the others, Concord, certainly, have that problem. I would think that whether you are a tourist community or whether you were not, the idea that your towns cannot enforce the laws that we have given them on the books, it seems to be very unfair to them. What those bills are, the ones that were pointed out to us in the committee, was the inability for a municipality to set minimum rental housing standards. Now imagine if you can't set minimum housing standards and enforce that. Also, the towns have the right to enforce the streets and sidewalks. Under current law, they can't do that because we haven't even given them a violation for that. Hawkers, peddlers and vendors, now how would your businesses feel on the main street of Concord or Laconia or Plymouth or Loon, if when people are out there running a business, there is someone hawking and peddling in front of their store, and the police have no way of enforcing that? So clearly, those are the kinds of laws that are there that do not, at this time, a violation or a way of enforcing it and the courts are throwing them out on procedural issues. We ask to support the Municipal Association. We believe that this piece of legislation, in its entirety, ought to pass. I hope that the committee will support that.

Senator D. Wheeler offered a floor amendment.

1997-0880s
05/02

Floor Amendment to SB 71-FN

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to identify and study statutes and ordinances in cases in which the penalty is not specified by statutes and clarifying the right to a jury trial in cases in which a civil penalty is imposed for a violation.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Intent. The legislature finds that when the classification of offenses was altered by 1992, 269, creating the new categories of class A and class B misdemeanors, as further clarified under 1993, 190, it was the legislature's intent that only a class A misdemeanor would trigger the right to a jury trial; that RSA 592-A:2-b, which calls for a jury trial for any violation where the aggregate amount of penalty exceeds \$500 is inconsistent with this scheme, and inconsistent with Part I, Article 20 of the New Hampshire constitution as amended in 1988; that this statute was overlooked by the legislature, and ought to be amended to be consistent with the remainder of the laws concerning trials.

2 Right To Jury Trial for Violations When Civil Penalty Imposed. Amend RSA 592-A:2-b to read as follows:

592-A:2-b Jury Trial. Trial by jury shall not be afforded in the superior court for any violation as defined in RSA 625:9, except upon ~~an appeal pursuant to RSA 599:1 of~~ the imposition *by the court* of a civil penalty which aggregates the total fines and penalties for a violation to an amount in excess of ~~[\$500]~~ *\$1,500 in which case an appeal may be taken in the same manner as is provided for class A misdemeanor convictions under RSA 599:1.*

3 Committee Established. There is established a committee to identify and study generally applicable mandatory requirements created or defined by statute, or by a municipal ordinance, code, or regulation properly enacted pursuant to an enabling statute, which neither specify what penalty or offense classification is applicable to a violation of that requirement, nor enable the municipality to do so.

4 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

5 Duties. The committee shall:

I. Identify and study generally applicable mandatory requirements created or defined by statute, or by a municipal ordinance, code, or regulation properly enacted pursuant to an enabling statute, which neither specify what penalty or offense classification is applicable to a violation of that requirement, nor enable the municipality to do so.

II. Consider ways to address the circumstances created by such requirements including, but not limited to, the possibility of classifying all violations of such provisions as violations subject to the imposition of penalties by the court under RSA 651:2.

6 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

8 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill establishes a committee to identify and study statutes and ordinances in cases in which the penalty is not specified by statute. It also specifies when there shall be a right to a jury trial in cases in which a civil penalty is imposed for a violation.

SENATOR D. WHEELER: What this amendment does is to allow the jury trial section of this bill to pass now and study the offenses and making them violations, over the summer, and to pin down those violations over the summer and to make sure that we are doing the right thing. The section of the bill that adds penalties to things that the legislature has said are offenses, needs careful study. For instance, if we have given the municipalities the right to regulate commons and sidewalks, I am not sure if it is what we want to do to allow up to a one thousand dollar fine, for instance, for not bringing your pooper scooper. If we have given them the authority to regulate commons and they pass an ordinance that says to keep off the grass, I am not sure it's what we want to do to have a one thousand dollar fine to keep off the grass. In the testimony in the Judiciary Committee, we heard that there were one hundred items similar to these, but they could not bring them forward and identify all of them. It is my concern that we are going to pass something like the pooper scooper example, that we don't know what we are passing, and that this legislation would carry forward, to add different items, whenever we pass a bill that says that it is an offense, without specifying a penalty. I think that would be dangerous. I think that it would be irresponsible to pass this section of the bill today, without studying it and identifying those issues that we would be changing the penalty for. There isn't really an outcry and there isn't an emergency to do this today. Let's do it the responsible way and study it over the summer. We will come back with those offenses that we have identified and go ahead and make them violations, but there may be those offenses that we think, "keep off the grass" and move on is enough without over regulating the people of the community. I would ask for your support of this floor amendment.

SENATOR HOLLINGWORTH: Senator Wheeler, why did you not bring the amendment before the committee so that we could have discussed it there? It places, I as a member and the rest of us as members, in an awkward position. The bill did get recommitted to committee, and at that time, the same debate took place. It was passed out again as ought to pass. I am not quite sure why you didn't present that amendment to the committee.

SENATOR D. WHEELER: Thank you for bringing that up, Senator Hollingworth. When this bill was brought back to committee, it was really boom, boom, in and out. Bernie Waugh was not brought back in to give us more details about these other hundred offenses, so I had to do these on my own after the fact. I will point out, Senator Hollingworth, that you were copied a set of facts that Bernie Waugh sent me yesterday so that you knew that I was heading down the path of this direction. I would like to point out that I also told you earlier this afternoon, that I was going to do this earlier this morning, and I was here until midnight last night working of floor amendments and getting things together. You know that this is a crunch time. I really think that your question is irrelevant.

SENATOR PIGNATELLI: Senator Wheeler, I had two to, but I will combine them. I take it that you are for homerule and I know you are for

homerule, what is this our business to get involved with municipalities deciding what they want to make as a violation and what they want to fine violators of their violations? Thank you.

SENATOR D. WHEELER: Thank you, Senator Pignatelli. I will remind the good Senator, that we are elected from home as well, and there are cases where one size fits all or home rule doesn't always fit. I do not support blanket home-rule.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Hollingworth.

Seconded by Senator Cohen.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danaïs, Cohen.

The following Senators voted No: McCarley, Whipple, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth.

Yeas: 15 - Nays: 8.

Floor amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Cohen.

Seconded by Senator Hollingworth.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danaïs.

The following Senators voted No: McCarley, Whipple, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 14 - Nays: 9

Ordered to third reading.

SB 82, relative to determination of reasonable compensation for certain trustees. Judiciary Committee. Vote: 7-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-0831s

01/09

Amendment to SB 82

Amend the bill by replacing all after the enacting clause with the following:

1 Compensation. RSA 564:21 is repealed and reenacted to read as follows:

564:21 Compensation for trustees of Non-Charitable Trusts.

I. A trustee of a non-charitable trust shall be allowed reasonable expenses incurred in the execution of *the* trust; and unless otherwise expressly provided in the trust instrument, *such trustee* shall have such reasonable compensation for services as the judge may allow.

II. *In the case of any corporate or professional trustee of a non-charitable trust, the probate court recognizes a rebuttable presumption that reasonable compensation for the trustee's services shall be defined by that institution's or professional's published inter vivos fee schedule or fee agreement, in effect at the time*

services are rendered. Corporate or professional trustees shall submit an affidavit to the probate court reciting their inter vivos fee schedule or fee agreement, in effect at the time services were rendered; a statement that the charges for the services rendered in this account are in accordance with the charges in that fee schedule or fee agreement; and a certification that the beneficiaries were notified of that fee schedule or fee agreement. Preparation of any trustee account or appearance at probate court, by a corporate or professional trustee, if required, shall not ordinarily be an additional charge.

III. Unless otherwise expressly provided in the trust instrument, such compensation and expenses *shall* be apportioned between [~~principal~~] *income* and [~~income~~] *principal* as the *trustee* shall determine *to be equitable*, [~~subject~~] *and shall be reviewed by the probate court.*

2 New Section; Compensation for Trustees of Charitable Trusts. Amend RSA 564 by inserting after section 21 the following new section:

564:21-a Compensation for Trustees of Charitable Trusts. A trustee of a charitable trust shall be allowed reasonable expenses incurred in the execution of the trust; and unless otherwise expressly provided in the trust instrument, the trustee shall have such reasonable compensation for services as the judge may allow. Such compensation and expenses shall be payable out of income only, unless otherwise provided in the trust instrument or where the judge determines that certain unusual and non-recurring services and expenses such as the distribution of principal are involved that should be charged to the corpus.

3 Committee Established. There is established a committee to study reasonable compensation of trustees of charitable trusts.

4 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, at least one of whom shall be a member of the senate judiciary committee, appointed by the president of the senate.

(b) Three members of the house of representatives, at least one of whom shall be from the house judiciary and family law committee, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

5 Duties. The committee shall study:

I. Reasonable compensation for trustees of charitable trusts.

II. The standard to be applied by the probate court in deciding upon petitions to change corporate trustees in testamentary trusts.

III. Any other matter determined relevant by the committee.

6 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

8 Effective Date.

I. Sections 3-7 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill clarifies the determination of reasonable compensation for trustees of non-charitable trusts. The bill also establishes a committee to study the issue of compensation for trustees of charitable trusts.

SENATOR GORDON: Senate Bill 82 is a bill which addresses compensation for corporate trustees. It creates a presumption that the rates set forth in the published rate schedule of corporate trustees constitutes reasonable compensation subject to review by the probate court. This legislation applies only to private trusts and not to charitable trusts that are subject to other court imposed limitations on compensation. The amended bill also creates a study committee to evaluate reasonable compensation for trustees of charitable trusts. The study will also look into making it easier for beneficiaries of trusts to relocate their trusts from one corporate trustee to another. The Judiciary asks for your support of SB 82 as amended.

Amendment adopted.

Ordered to third reading.

SB 193-FN, establishing the crime of criminal storage of a firearm. Judiciary Committee. Split report; Vote: 4-4, Ought to pass with amendment, Senator Cohen for the committee. Split report; Vote: 4-4, Inexpedient to legislate, Senator D. Wheeler for the committee.

1997-0719s

05/02

Amendment to SB 193-FN

Amend RSA 650-A:2, II as inserted by section 1 of the bill by replacing it with the following:

II. Any person who stores or leaves on premises under that person's control a loaded firearm, and who knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or guardian, is guilty of a class A misdemeanor if a child gains access to the firearm and:

(a) The firearm is used or displayed in a reckless or threatening manner; or

(b) The firearm is used during the commission of any misdemeanor or felony; or

(c) The firearm is negligently or recklessly discharged.

In this section, "child" means any person under 18 years of age.

Amend RSA 650-A:2, IV(b)-(f) as inserted by section 1 of the bill by replacing them with the following:

(b) The firearm is carried on the person or within such a close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person.

(c) The child obtains or obtains and discharges the firearm in a lawful act of self-defense or defense of another person.

(d) The person who keeps a loaded firearm on any premises which are under such person's custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

AMENDED ANALYSIS

This bill makes any person guilty of a class A misdemeanor who stores or leaves on premises under that person's control a loaded firearm, and who knows or reasonably should know that a child is likely to gain ac-

cess to the firearm without the permission of the child's parent or guardian, if a child gains access to the firearm and the firearm is used or displayed in a reckless or threatening manner, the firearm is used during the commission of any misdemeanor or felony, or the firearm is negligently or recklessly discharged. In this bill, "child" means any person under 18 years of age. The bill specifies certain occurrences that render the law inapplicable.

SENATOR D. WHEELER: At present, the Senate now considering SB 193, an anti gun bill and anti safety bill, the bill that would make it a crime for otherwise law abiding citizens to keep loaded firearms for protection in the readily available locations around their homes where they may need them most. The reasoning behind such legislation is misleading, and at worst, purely deceptive. Unfortunately, such organizations as the American Medical Association, peddle misinformation to the general public often resulting in such quick fix, overall ineffective legislation simply for the purpose of feeling good. The cold facts, however, make this legislation absurd. Many more, 10 to 20 as many children die each year from cars and other types of accidents as opposed to gun related injuries; yet, the AMA makes no call to ban cars filled with gasoline from the vicinity of children, rather it is left to the parents to exercise good judgment and train their children in motor vehicle safety and to prevent them from driving before the proper time. The fact is, that children to the age of twenty-four are used in the medical communities' reports and I am sure in statistics that you are going to hear today, to try and justify this bill. In an effort to bolster their weak arguments against the benefits of gun ownership, these facts are including every case from this extended age group far older than just children. Whether the victim happened to be involved in a street crime and or drugs or even whether the gun that was used was legal in the first place. There are frightening ramifications to this legislation; insurance companies will be able to charge your constituents greatly inflated rates merely for keeping firearms in a home, not to mention the unconstitutional regulation of firearms intended by the bill from the start. Even gun control advocates know the truth about such laws as SB 193. Former police chief from San Jose, California, Joseph McNamara, a spokesman for Handgun Control Inc. has admitted as much when he said, "You can't have it both ways. If you really safe guard your gun so that people in your house, your children or visitors or someone else, can't get hurt with it, then they won't be able to get the gun for the kind of emergency that they bought it for in the first place." The vast majority of responsible gun owning families already make one of two decisions, they either gun proof their children with safety training and education or they remove the firearms from the home for a period of time. These decisions should remain with the family. A more effective and constitutionally correct answer to safety concerns involving children and firearms would be to the instituting of safety courses in schools. At present, most school systems operate on the maxim that ignorance is bliss where the issue is concerned. I urge you to consider the ramifications of this bill and oppose it as unconstitutional and ill formed.

SENATOR COHEN: All of us in this Senate agree that we should only be making laws to correct problems that are otherwise not being addressed. TAPE INAUDIBLE. A rising tide of gun accidents involving children. We have already seen far too many examples here in New Hampshire. There are strong national statistics, but I'll just look at New Hampshire. In 1991, Timothy Keiser of Lee was 13, his 12-year-old friend

who had taken an NRA safety course, was trying to teach Tim about guns without supervision. He thought that he had all of the bullets out of the gun, but the 12-year-old, accidentally, killed his young friend. Tim would have turned 20 this year. His mother, her grief, is continuing endlessly. In Portsmouth, in 1994, a teenager had easy access to his father's gun, in a drunken driveby shooting, we lost UNH Professor, Richard Lyczak. In 1995, a Portsmouth high school student brought a loaded handgun to school. In Dover, in January 1996, a 10-year-old brought his father's forty-four magnum to the fifth grade where the gun went off. Luckily, the bullet only went into a book. There was an incident in Concord. It goes on and on. You may have seen the story on network television last week about our own Senator Jim Squires, saving the life of a Nashua boy accidentally shot through the heart. How many more do we need in New Hampshire? Every day, 15 American kids are killed with guns and for every one child killed, there are four children injured by guns. Can anyone here disagree that there are far too many incidents of kids with guns? This is a serious problem. We here today, can do something about it. We can, and we must, reduce these unnecessary tragedies. The way to do it, and it works, it does work, is by preventing children's unauthorized access to guns. In many other states, recognizing gun owner's negligence as a misdemeanor has deterred gun violence and significantly reduced the number of children's deaths. Child access prevention laws are working in 15 other states. I won't read you the list of them, but in Florida, incidents of accidental shootings decreased by 50 percent since their child access prevention law was passed. It has been even more successful in other states. In Maine, children's access to guns is also deterred. When you buy a gun in Maine, this is what you see at the cash register. It says, this is the size of it too, "Endangering the welfare of a child is a crime. If you leave a firearm and ammunition within easy access of a child, you may be subject to fine, imprisonment or both. Keep firearms and ammunition separate. Keep firearms and ammunition locked up, use trigger locks." The amendment to this bill takes out reference to "trigger locks," it is up to the individual how to store the guns. Should the ought to pass with amendment prevail, there will be a floor amendment offered reducing it from a Class A misdemeanor to a Class B, so there is not even a threat of jail time. Other states have this as a felony. Everywhere that it has been implemented, cap laws work. Passage of SB 193 will reduce incidents of children and guns in New Hampshire. Is it an imposition to gun owners? Hardly. Senate Bill 193 puts into law what most gun owners already do. What is an imposition is guns in our schools, and families living the rest of their lives in grief and in pain. The purpose of this bill is deterrence. There is plenty of proof that these laws do deter children's access to guns and save children's lives. The facts are in, the amended version that we have removes the reference to locking mechanisms, it is up to the individual. It allows magnificent prosecutor flexibility and discretion. Passage of SB 193 will serve as a deterrence, like the warning in Maine, it simply creates awareness that gun owners have a responsibility to keep guns away from kids. It merely reinforces the kind of gun safety that is already practiced by most people who own guns. Many gun owners, members of Gun Owners of New Hampshire, told me that they support this legislation. For example, this is from David Spatonivich, he says, "I am a member of the NRA, a certified pistol instructor, classified competition shooter, a firearm owner for many years, work part time selling firearms at a large seacoast sporting store and most importantly, a parent. The bill's major concern is being

responsible for having a loaded firearm unattended and the danger of a child finding it. This bill doesn't impede or control firearm ownership. With the second section, the bill doesn't prevent you from keeping a loaded firearm in the home. Senate Bill 193 seems to say that if you have a loaded firearm in the house, have control of it. I support this bill as a parent and as a responsible firearm owner." In Dover, after the forty-four went off in the classroom, an ordinance was passed there without an objection, which is essentially this bill. City prosecutor George Wattendorf said in support of this bill, "There should be an accountability in an incident like the grade school gun discharge." It wouldn't have happened without the parent being irresponsible and negligent. Many gun owners in Dover agreed with the ordinance because the responsible gun owners practice safe storage where there are minors in the household. Again, does anyone here disagree with the notion that with gun ownership, comes certain unique responsibilities? Like so many laws that we make to deter irresponsible behavior, this bill has no effect on responsible adults. It simply says that it is a basic responsibility as a parent to be sure that something as dangerous as a gun, which unlike a knife, can go off and shoot bullets into a classroom. That a gun must be secured and unavailable for unsupervised use by the children. It recognizes that responsibility and gives it the force of law. It leaves to individuals, the right to decide how to best combine educational and environmental measures to prevent injuries. It only goes into effect when the adult has been found to be negligent. The bill says, "For any person to be found guilty, the child must have used or displayed the firearm in a reckless or threatening manner or used the firearm in a commission of a crime or discharged the firearm negligently or recklessly. Is this not reasonable? How many more times do we have to read about kids taking guns to school? The problem is serious and it is getting worse. That is why we need this legislation. Since it has the word "gun" in the title, the well organized gun lobby, at the national level, is seeking to preempt our local decision making as evidence by a letter that you may have received from Virginia. But I will tell you that the other parts of the NRA support similar legislation. Since the previous speaker quoted out-of-state sources, "The National Rifle Association is in Wisconsin which generally opposes gun control laws, will support Wisconsin legislation that would make it a crime for adult to leave loaded guns within the reach of children." There is a similar letter from California saying that, "This bill will, in no way, hurt California's responsible gun owners." Back home in New Hampshire, the chiefs of police support this bill. More and more families are saying "enough". We can protect second amendment rights and increase the safety of our children. I would hope that as highly valued as guns are in some quarters, these same people would place at least as much value on the safety of our children. The gun owner who does not do as this bill says, is a threat to my family and to yours. In other states, cap laws have reduced child and gun tragedies. If it becomes law here, we will be preventing future tragedies. Rights remain intact, children's lives will be saved. The fact is, my little six-month-old daughter and your children, are not safe when other kids they may encounter have easy access to guns. If the idea of having guns in the home is to protect our families, we must certainly keep those guns away from children. If we don't take action now, how will it stop? When will it stop? For those of you thinking of voting against this, the next time a child brings a gun to school or is shot, I want you to remember the opportunity that you let slip by. Thank you.

SENATOR PIGNATELLI: I speak in favor of SB 193. This bill assigns responsibility to adults whose loaded firearms come into the possession of children, meaning a person under age 18. When the child uses it negligently or recklessly or in a commission of a crime. We recognize the right of adults to own and possess firearms. This bill simply assigns legal responsibility along with that legal right. Is it too much to ask that gun owners exercise a good deal of care in keeping loaded firearms away from children? I encourage all of you to vote to support this public safety measure. Thank you.

SENATOR LARSEN: I believe that Senator D. Wheeler said that the cold facts make this bill absurd. I say that the cold facts are that the AMA supports this bill because they see the results of unsafe storage of firearms amongst our children. The cold facts are, that each year at least 12 children between the age of zero and 19 years of age, die in New Hampshire due to gun shot wounds. This number increases every year. The cold facts are, on the national level, 4,941 children died of gunshot wounds in 1990. The cold facts are these, 538 children were shot unintentionally. Misuse of firearms is not always accidental or unintentional. Sixty-four percent of New Hampshire's teen suicides are committed by firearms. This is four percent greater in New Hampshire than the national average. The cold facts, are right here in the city of Concord. We had an 18-year-old boy who died because of reckless use and reckless storage of a loaded firearm. The cold facts are, we need to think about our children and to pass this bill.

SENATOR K. WHEELER: I want to build a bit on what Senator Larsen said with her statistics with the 12 young people in New Hampshire whose deaths occur every year because of the use of firearms. Twenty-six percent of these are unintentional, and therefore, could be prevented by safe storage or other safe uses practices. So for those of you that feel that accidental deaths are not attributable to firearms, they are indeed, and we have the statistics to prove that. In fact, I am surprised that Senator David Wheeler does not support this legislation because it is part of a new wave of parental responsibility laws that are making a stronger statement about parents controlling their children and involving them in the juvenile justice system. I do think that this should be the responsibility of parents to make sure that such dangerous weapons are used appropriately and stored appropriately. I am virtually convinced that Senator David Wheeler would agree with me that this is also a parental responsibility. Thank you.

SENATOR D. WHEELER: Senator Wheeler, we know that more children die from drunk driving accidents than of shot wounds. Would you also be willing to make it a crime that the parents would become criminals if they don't lock up the liquor cabinet and a child gets into a drunk driving accident because their liquor was available at home as well?

SENATOR K. WHEELER: Senator Wheeler, that's clearly not the point of this argument, and no, of course I wouldn't agree with that.

SENATOR SQUIRES: I have a professional interest in the subject. I would like to speak instead to two points, one personal and the other from a constituent. Not long ago, my daughter, who teaches English in the eighth grade in Virginia, a state that is well known for the availability of firearms, was tutoring a child on the other side of the class room and an explosion took place and an eighth grade 14-year-old fired a thirty-eight weapon. This was a dispute over a boyfriend. I offer some-

thing that is not misleading or deceptive. This is where the bullet went, right through her sweater, which happened to be sitting on the chair that she usually occupies. I can tell you that a bullet going through there, if it didn't remove her arm, certainly would have resulted in permanent damage. The fact that the owner of this weapon, the father, was allowed to go about his business with no evident sense of responsibility, seems to me to be not the direction that we ought to go. This sweater and its event made a great impression on me. It is the reason why I believe that this is an important bill. I would also like to read into the record, part of a letter from a constituent who asked me to convey this to you. Her name is Tiffany Worley and she lives at 69 Catagain Way in Nashua, New Hampshire and she is a gun owner, she is a member of the New Hampshire Gun Owners and she says, "It would be a service to me, as a gun owner, if the committee passed this legislation. It is a disservice to responsible gun owners to allow irresponsible gun owners a free rein and to absolve them from their responsibilities as owners of a deadly weapon. I have been very angry when I have heard the news of another child being caught with a gun in a potentially dangerous or deadly situation without a hint of consideration that the parents bore some responsibility for their carelessness. This puts me, as a gun owner, in a category of people who either have no consideration of people outside of their own frame or no brains. I would like those people removed from the ranks of gun owners so that New Hampshire citizens can start recognizing those who legally own guns in this state are responsible and competent citizens and neighbors." On those two points, I urge you to pass this bill.

SENATOR FRANCOEUR: Senator Squires, I deeply feel as you do, that children at risk to injury from guns is bad, but are you aware that currently the NRA polls showed that two and a half million times a year, a gun is used in the defense of a family or an individual, and that even though we hear these statistics of how many times a year in New Hampshire, we have a child get hurt, that the corresponding number is also the number of children that are saved by the use of a weapon and is made very well, the very much higher than the amounts that we are seeing here, this problem. Possibly the solution is worse than the problem?

SENATOR SQUIRES: Yes, I am aware of those statistics. I believe that there certainly is a place for self defense. This bill in no way limits anybody from having a loaded weapon in their home within arm's reach, at any time. All that the bill says, at least in my reading it is, that if you leave it in such a manner, and a child comes and takes it when you have reason that they might, then you are responsible. Finally, I do support Senator Cohen's amendment. I think that this should be a Class B misdemeanor. I am not recommending prison time. I don't think that accomplishes anything, but it certainly does send a message of responsibility.

Senator Barnes moved the question.

Adopted.

Question is on the committee amendment.

A roll call was requested by Senator Cohen.

Seconded by Senator Blaisdell.

The following Senators voted Yes: F. King, McCarley, Roberge, Blaisdell, Squires, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: Gordon, Johnson, Fraser, Rubens, Patenaude, Whipple, D. Wheeler, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

Yeas: 11 - Nays: 13

Committee amendment failed.

Senator Cohen floor amendment.

1997-0988s

05/08

Floor Amendment to SB 193-FN

Amend RSA 650-A:2, II as inserted by section 1 of the bill by replacing it with the following:

II. Any person who stores or leaves on premises under that person's control a loaded firearm, and who knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or guardian, is guilty of a class B misdemeanor if a child gains access to the firearm and:

(a) The firearm is used or displayed in a reckless or threatening manner; or

(b) The firearm is used during the commission of any misdemeanor or felony; or

(c) The firearm is negligently or recklessly discharged.

In this section, "child" means any person under 18 years of age.

Amend RSA 650-A:2, IV(b)-(f) as inserted by section 1 of the bill by replacing them with the following:

(b) The firearm is carried on the person or within such a close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person.

(c) The child obtains or obtains and discharges the firearm in a lawful act of self-defense or defense of another person.

(d) The person who keeps a loaded firearm on any premises which are under such person's custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

AMENDED ANALYSIS

This bill makes any person guilty of a class B misdemeanor who stores or leaves on premises under that person's control a loaded firearm, and who knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or guardian, if a child gain's access to the firearm and the firearm is used or displayed in a reckless or threatening manner, the firearm is used during the commission of any misdemeanor or felony, or the firearm is negligently or recklessly discharged. In this bill, "child" means any person under 18 years of age. The bill specifies certain occurrences that render the law inapplicable.

SENATOR COHEN: This floor amendment reduces it from a Class A misdemeanor to a Class B misdemeanor, thus there would be no possibility of jail time. Were it to be passed, this would be weaker than most other states. It allows tremendous flexibility of the prosecution. There is no possible jail time in this. It will still have the effect of deterring child use of guns. Again, I want you to think about the next time that you read about a child with a gun in school, think about the opportunity that you had today.

SENATOR HOLLINGWORTH: Senator Cohen, in the committee, would you just refresh my mind? How did the committee vote for this? Was it 4-4?

SENATOR COHEN: Yes, it was 4-4.

SENATOR HOLLINGWORTH: Thank you.

A division is requested.

Yeas: 11 - Nays: 13

Floor amendment failed.

Question is on ordering to third reading.

A roll call was requested by Senator J. King.

Seconded by Senator Cohen.

The following Senators voted Yes: F. King, McCarley, Roberge, Blaisdell, Squires, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: Gordon, Johnson, Fraser, Rubens, Patenaude, Whipple, D. Wheeler, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

Yeas: 11 - Nays: 13

Motion of ordering to third reading failed.

Senator D. Wheeler moved inexpedient to legislate.

Adopted.

SB 193 is inexpedient to legislate.

SB 195-FN, relative to the sale of firearms and arrests without warrants. Judiciary Committee. Majority report; Vote: 5-3, Ought to pass with amendment, Senator Pignatelli for the committee. Minority report; Vote: 3-5, Inexpedient to legislate, Senator Francoeur for the committee.

1997-0733s

05/01

Amendment to SB 195-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to the sale of firearms.

Amend the bill by deleting section 14 and renumbering the original section 15 to read as 14.

AMENDED ANALYSIS

This bill expands the scope of the law relative to the sale of handguns to encompass all firearms and defines the term "firearm."

SENATOR FRANCOEUR: As you know, SB 195 expands New Hampshire instant check law through all firearms not just handguns. If this bill passes, the gun grabbers will have passed another step towards gun owner registration, gun rationing and gun confiscation. Gun owners, Gun Owners of New Hampshire, Gun Owners of America and NRA all oppose SB 195 because it infringes on the rights of innocent gun buyers. By statute, the state treats every gun buyer as a criminal trying to buy a gun illegally. Only when a gun buyer is proven innocent may he exercise his second amendment right to buy a gun. Each gun purchase is

considered a threat instead of a constitutional right. Senate Bill 195 expands Brady registration mechanism as the platform for gun rationing and the architecture for total gun and gun owner registration. History has shown that registration leads to gun rationing. History has shown that registration and gun rationing leads to gun confiscation. For example, in 1991 Virginia passed a law like SB 195 and in 1993 Governor Doug Wilder an anti-gunner, proposed a one gun a month rationing law, HB 1592. Using the instant check mechanism no one is allowed to buy more than one handgun a month. Many of the proponents of SB 195 are likely to claim that background check names will be deleted after a certain period of time, but the temptation of government officials to hang onto the names is overwhelming. In fact, 1989 justice department reports state, that any system that requires a criminal history check prior to purchase of a firearm creates a potential for the automated tracking of individuals who seek to purchase firearms. In short, SB 195 is a tool in which gun rationing or confiscation can be imposed. Any vote in favor of SB 195 is a vote to further strengthen the foundation for rationing or confiscation and would be considered an anti second amendment right.

SENATOR PIGNATELLI: Before I begin my remarks, I want you to know that I am not buying anything that Senator Francoeur just said. Let me briefly explain why the majority of the committee believes that SB 195 should pass. Under our present laws in New Hampshire, there are certain individuals who are not permitted to purchase handguns, including convicted felons and people who are subjects to restraining orders or have been convicted of domestic violence offenses. As we know, under our New Hampshire instant check system, sellers of handguns are required to call for a criminal history check before making the sale of that handgun. We have a big gap in our law, however, because there is presently TAPE INAUDIBLE when selling a rifle or a shotgun. A few months ago, we had a terrible shooting in the Sanders parking lot in Nashua. A Nashua woman, Barbara Lussier had sought and obtained a restraining order against a former boyfriend. Unfortunately, just before she was shot and killed by him with a shotgun, he recently purchased a shotgun even though he should not have been able to buy it. The seller knew that this buyer, a soon-to-be murderer, was subject to a restraining order and, therefore, unauthorized to purchase a handgun. The seller was not required to call under the New Hampshire instant check system law, because the purchase was for a rifle, not a handgun. This bill before us today, would require that a call first be made even though the buyer wants a rifle. It might have saved Barbara Lussier in Nashua. It might save many others in the future, including our police officers who often get involved in these kinds of explosive situations. The Federal Department of Justice, this past February, announced that the Brady bill, blocked 186,000 illegal purchases of handguns. Most were for convicted felons, but two percent, were for those under restraining orders. That is a lot, 3,600. But it applies only to handguns not rifles. Let us pass this bill, it might help prevent the next Barbara Lussier killing. Her murderer certainly would not have had such an easy time killing her. Police tell me that he tried and failed to buy a handgun because of our instant check system. Unfortunately, when he asked for a shotgun, he got it, and unfortunately, he used it. Thank you very much.

Recess.

Out of recess.

SENATOR HOLLINGWORTH: Senator Pignatelli, isn't it true that this legislation will in no way delay any legitimate purchaser of a rifle and that they will be able to, it is only those people who have a restraining order against them?

SENATOR PIGNATELLI: You are absolutely right. It might delay them for a few minutes while the phone call is being placed to find out whether they are, in fact, are under a restraining order or are convicted of domestic violence or a felon.

SENATOR PATENAUDE: Do you realize, Senator Pignatelli, that at many sporting events that vendors come and sell and people might bring a gun and might need to get one for their event, and there is no telephones of such and often they might need to run back to the line? Also, do you realize that there is an eight dollar charge every time the background check is performed and that cost is passed onto the gun purchaser?

SENATOR PIGNATELLI: Yes, I understand that. I also understand that this is not going to prevent every death, but it is going to make it a lot harder for someone who should not have a gun, a rifle or a shotgun, to obtain that. In that cooling off period, that time, might be enough to cool a hot head. Thank you.

Question is on the committee amendment.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: Gordon, McCarley, Roberge, Blaisdell, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Rubens, Patenaude, Whipple, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

Yeas: 10 - Nays: 14

Committee amendment failed.

Senator Francoeur moved inexpedient to legislate.

Adopted.

SB 195-FN is inexpedient to legislate.

HB 114, requiring members of conservation commissions to be residents of the city or town which they represent. Public Affairs Committee. Vote: 4-1. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: House Bill 114, requiring members of conservation commissions to be residents of the city or town which they represent. Representative Abbott, prime sponsor of HB 114, testified at the Senate hearing that this bill would simply correct an error which occurred when RSA 36-A:3 was originally drafted – omitting the residency requirement of commission members. Because conservation commissions can and do become involved in activities that require spending tax dollars of local citizens, requiring commission members to be residents of the town which they serve will further protect the interests of local taxpayers. For those members of the Senate who may be concerned that HB 114 violates home rule, HB 114 simply brings conservation commissions in line with similar commissions and town boards such as zoning, plan-

ning, historical and heritage boards and commissions that currently have member residency requirements. The Public Affairs Committee recommends that this bill ought to pass.

SENATOR MCCARLEY: After the rather emotional issues that we have been covering, I hate to take more of our time, but I would encourage this Senate to seriously consider not passing this legislation. I think, once again, we have elected selectmen and city councils who by their charters make determinations of who serves on these various committees. It is true that the state has come in, in some cases, and dictated the residency requirements, but in cases where the state has been silent, in this case, on the conservation commission, it allows for a conservation commission so that it can exist, but it doesn't list who has to be on it. I really think that we ought to remember, as I said last week, when we get in our cars to drive over here, that indeed our city elected officials and town elected officials, may have a reason that they want somebody on the conservation commission who doesn't necessarily live there and they have the ability to totally control that. So I would seriously ask that the Senate consider not passing this piece of legislation. Thank you.

Adopted.

Ordered to third reading.

HB 140, relative to the sale of apples and relative to maple syrup and sap hydrometers and orders issued by the commissioner for noncompliance with the laws regulating maple and honey products. Public Affairs Committee. Vote: 5-0. Ought to pass, Senator McCarley for the committee.

SENATOR MCCARLEY: House Bill 140 provides that apples must be in storage for a minimum of 60 days with not more than five percent oxygen to qualify for the definition of controlled atmosphere. Control Atmosphere apples have extended seasons and can be sold throughout the winter. Technology has improved so that it is no longer necessary to keep the apples in a controlled atmosphere for as long as 90 days. The bill also allows the commissioner of the department of agriculture to issue and serve a written stop sale use or removal order to the custodian of a product that violates any provision of the maple and honey product laws. In addition, HB 140 would repeal RSA 429:18 that requires the department of agriculture to test the accuracy of all maple and syrup hydrometers that are used to determine the density of maple syrup. At the hearing, proponents testified that other mechanisms such as simple thermometers can and are often used to determine the density of maple syrup and there are potentially hundreds of hydrometers that would need to be tested and that is a burdensome process for the department. The bill was a request of the department of agriculture and no one opposed it. The Public Affairs Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 158, creating a committee to study the establishment of a New Hampshire volunteer program. Public Affairs Committee. Vote: 4-1. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: House Bill 158, creating a committee to study the establishment of a New Hampshire volunteer program. This bill creates a committee to study establishing a program that places volunteers with state agencies to perform duties requested by the agency. The elderly population is increasing in the United States. It makes good sense for

the state of New Hampshire to explore enlisting the services of high quality, educated retired persons on a regular basis. Many state agencies already utilize volunteers. House Bill 158 would require analysis as to which agencies would best benefit from volunteers and would create higher visibility for volunteerism. The Public Affairs Committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 205-L, relative to special ballots for unorganized places. Public Affairs Committee. Vote: 5-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-0892s

05/08

Amendment to HB 205-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT relative to special ballots for unincorporated places.

Amend the bill by replacing all after the enacting clause with the following:

1 Ballot Preparation Requirements for Unincorporated Places Modified. Amend RSA 668:5 to read as follows:

668:5 Preparation of Special Ballots. For any state election, the secretary of state shall prepare special ballots for the inhabitants of [~~each unorganized~~] ***all unincorporated*** places. ***For purposes of this section, "special ballots" shall mean the ballots to be used by all unincorporated places in the same state representative district as opposed to separate ballots for each unincorporated place. These special ballots shall have no location printed on them, but shall have a space where the name of an unincorporated place shall be entered by the town clerk of the designated town.*** [On the special ballots, the secretary shall have printed the words necessary to make the ballots distinct from the other ballots in the town in which they are designated to vote.] The secretary of state shall print only the names of candidates for offices for which the inhabitants of [~~the unorganized~~] ***unincorporated*** place are entitled to vote, as provided in RSA 668:4. ***It shall be the duty of the town clerk to make ready in advance a sufficient number of ballots for each person on the official check-list of the unincorporated places. If it is necessary because of election day registrations, extra ballots shall be prepared and the number attested to at the end of the voting.*** In all other respects, such special ballots shall be printed and forwarded to the town clerk in the same manner as the other ballots for the designated town.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the secretary of state to prepare special ballots for unincorporated places which include all unincorporated places in the same state representative district on one ballot for any state election. Current law requires a special ballot for each unincorporated place for state elections.

SUBSTITUTE MOTION

Senator Roberge moved to substitute recommit for ought to pass with amendment.

Adopted.

HB 205 is recommitted.

HB 227-L, relative to North Hampton property taxes. Public Affairs Committee. Vote: 6-0. Ought to pass, Senator Roberge for the committee.

SENATOR BARNES: House Bill 227-L, relative to North Hampton property taxes. House Bill 227-L makes adjustments to the North Hampton property tax rate, for the fiscal year beginning July 1, 1997, to finalize the transition to a fiscal tax year. During last session, the legislature passed a bill to allow the town of North Hampton to change its billing cycle from semi-annual to annual. Using an artificial tax rate to ease the impact on North Hampton taxpayers, the local legislative body used the remaining balance of the general fund to create an artificially low tax rate. Now that North Hampton's financial situation has improved, the town now seeks to revert back to the more advantageous semi-annual cycle. No one opposed the bill at the hearing. The committee recommends unanimously, that this bill ought to pass.

Adopted.**Ordered to third reading.**

SB 159-FN, establishing a committee to study increased public access to data concerning physicians. Public Institutions, Health and Human Services Committee. Vote: 8-0. Ought to pass with amendment, Senator Squires for the committee.

1997-0898s**01/09****Amendment to SB 159-FN**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study increased public access to data concerning physicians and persons certified or registered under RSA 330-A.

Amend the bill by replacing sections 1-4 with the following:

1 Committee Established. There is established a committee to study increased public access to data concerning physicians and persons required to be certified or registered under RSA 330-A.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study increased public access to data concerning physicians and persons required to be certified or registered under RSA 330-A.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

AMENDED ANALYSIS

This bill establishes a committee to study increased public access to data concerning physicians and persons required to be certified or registered under RSA 330-A.

SENATOR SQUIRES: Senate Bill 159 establishes a committee to examine increased public access to data regarding physicians. This bill comes as a response to Massachusetts' recent adoption of a similar law granting public access to information regarding physicians. This information needs to be presented clearly to the consumer in order for them to understand the facts and benefit of an informed decision. Massachusetts received five hundred phone calls the first day that this information was made available. Half a dozen more state employees had to be hired to handle this influx. Senate Bill 159 study committee would allow New Hampshire to take advantage of the Massachusetts experience and examine any possible problems or pitfalls that may arise with access to such data before a system may be implemented in New Hampshire. An amendment adds to this bill, a person certified or registered under RSA 330-A which includes mental health providers that are accountable to their own body. The Public Institutions, Health and Human Services Committee unanimously recommend ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 163, repealing the law which requires the commissioner of health and human services to deny the application or renewal of the license of an emergency medical technician convicted of driving while intoxicated. Public Institutions, Health and Human Services Committee. Vote: 5-0. Ought to pass, Senator Squires for the committee.

SENATOR SQUIRES: House Bill 163 repeals RSA 151-B:11 which would require the commissioner of Health and Human Services to deny the application or renewal of the license of an emergency medical technician convicted of DWI. An EMT license has nothing to do with the motor vehicle, rather it licenses an individual to provide medical care in the back of an ambulance. No other licensed professional is subject to the loss of their specialty license for a similar conviction. This is taking away the EMT's livelihood. There are currently provisions in the law that allow the commissioner to take action if there are multiple offenses or incidents while on duty. The Public Institutions, Health and Human Services Committee recommend ought to pass.

Adopted.

Ordered to third reading.

HB 313, clarifying the authority of security officers on the New Hampshire hospital campus. Public Institutions, Health and Human Services Committee. Vote: 6-0. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: As amended by the House, HB 313 simply clarifies the New Hampshire Hospital Campus Security Officers authority. House Bill 313 expands the patrolling area of the security officers at the New Hampshire Hospital to include the grounds of the State Office Park South. Currently, the security officers do not have the authority to act on any situation that incurs in the other vacant building on the one hundred and six acre campus. They only have authority for the three state agency buildings being used at the moment. The committee urges ought to pass.

Adopted.

Ordered to third reading.

SB 173-FN, relative to license and registration suspensions. Transportation Committee. Vote: 6-0. Ought to pass with amendment, Senator Cohen for the committee.

1997-0870s
03/09

Amendment to SB 173-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Mandatory Suspension of Registration. Amend RSA 261:180 by inserting after paragraph I the following new paragraphs:

I-a. Notwithstanding the provisions of RSA 261:178, in addition to the penalties specified in paragraph I, a person whose license or privilege to drive has been revoked or suspended for a minimum period of 90 days shall be prohibited from registering in this state any type of vehicle or vessel, the registration of which is required under this title or RSA 215-A or RSA 270 during the period of such revocation or suspension. A judge may also revoke, for a period which is coterminous with the license suspension, any existing vehicle or vessel registration in the name of a person whose license has been suspended for a minimum period of 90 days. A judge revoking an existing registration shall inform the person that a hardship registration may be available pursuant to RSA 261:180, IV. The provisions of this paragraph shall not apply to point system suspensions.

I-b.(a) The department of safety shall mark the records of any person whose license has been revoked or suspended for a minimum of 90 days to indicate that such person's plates are nonrenewable.

(b) Plates shall not be reissued until such person:

(1) Pays all outstanding financial obligations as provided in RSA 265:82-d.

(2) Provides proof of financial responsibility in such form as the director may prescribe.

(3) Successfully completes all applicable treatment and rehabilitation programs.

(4) Pays a \$25 restoration fee which shall be deposited into the highway fund.

2 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill:

(1) Prohibits a person whose license or privilege to drive has been revoked or suspended for a minimum period of 90 days from registering a boat or any type of motor vehicle, including OHRVs, trucks, or motorcycles, in this state for the period of such revocation or suspension, and allows a judge to revoke any existing registration in the name of a person whose license has been suspended for a minimum period of 90 days for the period of suspension. This provision shall not apply to point system suspensions.

(2) Imposes an additional registration restoration fee.

(3) Requires the department of safety to mark the records of any person whose license or privilege to drive has been revoked or suspended for a minimum of 90 days to indicate that such person's plates are non-renewable.

SENATOR COHEN: Senate Bill 173-FN, relative to license and registration suspension, is very similar to last session's SB 542 that attempted

to extend registration revocation to first offense DWI convictions. Senate Bill 542 was suggested in response to a situation in Portsmouth in which a three-year-old child was critically injured by a driver whose license had been revoked. Senate Bill 542 passed the Senate and the House policy committees, but was killed during House Finance deliberations as a result of false information that suggested that under SB 542, requests for hardship registrations would not be permitted. That was simply untrue. This year it is very clear that under the provisions of SB 173, hardship requests would still be permitted. Specifically, under RSA 261:180, IV it reads: "The Commissioner shall establish pursuant to RSA 541-A, a system for providing a hardship registration for an additional fee of ten dollars on a vehicle registered to a person whose license is under suspension or revocation and whose registration has also been suspended or revoked pursuant to this section." Senate Bill 173 prohibits a person whose license has been revoked or suspended for at least 90 days from registering a boat or any type of motor vehicle throughout that 90 day's revocation or suspension. Also under SB 173, a judge will be allowed to revoke an existing registration in the name of a person whose license has been suspended for at least 90 days for the period of suspension. The bill also references a twenty-five dollar restoration fee to be paid prior to an individual being reissued his or her registration. This existing language was included in an effort to keep the statute consistent. The committee amendment requires judges to notify those convicted of DWI offenses of the potential to obtain hardship registrations. Senate Bill 173 makes great steps in protecting the roadways from what is perceived by the general public to be the most serious of offenders – drunk drivers. The Transportation Committee hopes the full Senate will join us in voting this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 194-FN, requiring any person erecting, installing, maintaining or exercising control over a mooring on Ossipee Lake to obtain a mooring permit from the division of safety services, department of safety. Transportation Committee. Vote: 4-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 194-FN, requiring any person erecting, installing, maintaining or exercising control over a mooring on Ossipee Lake to obtain a mooring permit from the Division of Safety Services, Department of Safety. House Bill 194-FN requires any person erecting, installing, maintaining or exercising control over a mooring on Ossipee Lake to obtain a mooring permit from the division of safety services, department of safety. Representative Randy Lyman testified that Ossipee Lake Marine Patrol requested this legislation. Though moorings can provide more access for more people to Lake Ossipee, some individuals who already have moorings on the lake are failing to obey the mooring regulations. Mooring permits are already required for Lake Winnepesaukee, Lake Winnisquam, Squam Lakes, Newfound Lake, and Lake Sunapee. Requiring mooring permits on Lake Ossipee will simply bring Lake Ossipee in line with other popular lakes in New Hampshire. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 217, relative to outdoor advertising hearings in the department of transportation. Transportation Committee. Vote: 7-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 217 is a request by the Department of Transportation. It deletes the requirements for the automatic hearings on billboard related issues and transfers the initiation of such hearings to the licensee owner or permittee. The change is designed to save the department both time and money. Currently, the department is required by statute, to conduct an administrative hearing after they send out notification letters when they will be denying, revoking a license permit or a renewal for a billboard; however, hearings that are resolved beforehand, typically go unattended and waste the departments time and money, but HB 217 while still preserving the tenancy of due process, transfers the responsibility for initiating the administrative hearing process to the licensee owner or permittee. The department will continue to send out the notices of denial or revocation, but it will be the responsibility of the billboard owner to schedule a hearing. The Transportation Committee unanimously recommends HB 217 as ought to pass.

Adopted.

Ordered to third reading.

HB 251-FN-L, reclassifying a portion of North Main Street in the town of Farmington and a portion of Passaconaway Road in the town of Albany. Transportation Committee. Vote: 6-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-0856s

01/09

Amendment to HB 251-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT reclassifying a portion of North Main Street in the town of Farmington, a portion of Passaconaway Road in the town of Albany and a portion of Osgood Road/Mason Road in the town of Milford.

Amend the bill by replacing section 3 with the following:

3 Classification Changed. Osgood Road/Mason Road, in the town of Milford beginning at the intersection of King Street westerly for a distance of 0.97 miles to the existing class V highway shall be classified hence forth as a class V highway.

4 Effective Date.

I. Section 3 of this act shall take effect upon its passage

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill reclassifies a portion of North Main Street in the town of Farmington from a class II to a class V highway. The bill reclassifies a portion of Passaconaway Road in the town of Albany. The bill also reclassifies a portion of Osgood Road/Mason Road in the town of Milford.

SENATOR WHIPPLE: House Bill 251 reclassifies a portion of North Main Street in the town of Farmington from a class II to a class V highway. It reclassifies a portion of Passaconaway Road in the town of Albany and reclassifies a portion of Osgood Road and Mason Road in the town of Milford. Each of the roadways addressed in the bill are class II low priority roadways for the state that the state maintains in the summer

and the respective towns maintain in the winter. The genesis of this project came about when due to a state of disrepair of North Main Street in Farmington, the town of Farmington contacted the Department of Transportation and suggested that if the Department of Transportation repairs the section along Tibbets Hill road and Old Bay Road, the town of Farmington will perform all future maintenance on that road. No one opposed the bill at the hearing. The committee recommends that this bill pass as amended.

Amendment adopted.

Ordered to third reading.

HB 296, relative to airways toll moneys and aircraft operating fee revenues. Transportation Committee. Vote: 5-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: This bill allows a portion of the airways toll moneys to be paid over to a town or city aeronautical fund. The bill also specifies the distribution of aircraft operating fee revenue. The Aeronautical Fund was removed as a designated fund last year. This is simply a housekeeping bill. No one testified in opposition to this bill at the Senate hearing. The committee unanimously recommends this bill as ought to pass. Thank you.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

SB 73-FN, providing that telephone and cable communications poles and lines be subject to the property tax. Ways and Means Committee. Majority report; Vote: 4-2, Inexpedient to legislate, Senator Danais for the committee. Minority report; Vote: 2-4, Ought to pass, Senator F. King for the committee.

SENATOR DANAIS: Senate Bill 73 imposes a new tax on the communications property of telephone and cable companies. This new tax will be passed onto the consumers in the form of higher telephone and cable rates. Telecommunications and cable property have always been taxed differently than the electric utility property. Telecommunications property has never been subject to local property tax. In April of 1990, the legislature repealed the state personal property tax on telephone property assets and replaced it with the communications services tax currently at 5.5 percent tax on all telecommunications providers not just those that have invested in the New Hampshire infrastructure. Tremendous pressure has been brought to bear on this body by the municipalities because of the tax abatement filings of the electric utilities. The problem is the potential loss of local tax revenue from the electrics. The proposed solution will enact a new tax. The Committee on Ways and Means recommend SB 73 as inexpedient to legislate.

SENATOR GORDON: I am sure, like all of you, I found this proposed legislation to be very troubling. We have listened to arguments on both sides of the issue and we always try to do the right thing, but it seems like on this particular bill, it is somewhat difficult to decide what is right. It seems that the need for this particular bill is created by a constitutional uncertainty, and that uncertainty involves whether certain property owners TAPE INAUDIBLE for communications or electrical pur-

poses. I believe that we should attempt to address this uncertainty before voting on this bill. Perhaps we could send the question to the Supreme Court for its opinion. That would need to be completed with some urgency so that we don't place our communities at risk, however. But I would believe that perhaps a tabling motion would be appropriate to give us some time to determine whether the court could respond in a timely manner and whether a question of that type would be appropriate for the court.

SENATOR F. KING: Senator Gordon, I support what you are doing, but I would ask you to give this body a little more information about what you consider to be timely?

SENATOR GORDON: It is my understanding that tax abatements have been filed for the previous year, the tax year of 1996 and I am not sure that at this point in time, the legislature can do anything about that. I believe that the legislature would have to act in a very timely manner in order to prevent having the towns placed at risk for potential abatements for the 1997 tax year. So when I indicated that there was a sense of urgency, that is what I was referring to Senator King.

SENATOR F. KING: I guess that what I am asking based on your previous experience in the legal profession, what we could anticipate for a reply time from the Supreme Court. I guess that is what I am after so, how long will this bill have to lie on the table before we have an opportunity to have the answer to that question?

SENATOR GORDON: I think that is part of the reason of putting it on the table, because we probably don't know the answer to that question and perhaps giving us some opportunity to place it on the table would give us a way of determining whether the court can respond in a timely manner or whether or not we need to act on this. In any event, it certainly is not my intent to place this on the table to kill it. It is my intent to place this on the table so that we can legitimately address the questions raised by the bill.

SENATOR F. KING: Thank you Senator Gordon for your consideration. Senator Danaïs moved to have **SB 73-FN**, providing that telephone and cable communications poles and lines be subject to the property tax, laid on the table.

Adopted.

LAID ON THE TABLE

SB 73-FN, providing that telephone and cable communications poles and lines be subject to the property tax.

SB 216-FN-A, relative to pari-mutuel racing and taxes on pari-mutuel pools. Ways and Means Committee. Vote: 5-2. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: Senate Bill 216, relative to pari-mutuel racing and taxes on pari-mutuel pools is a result of a study committee established by SB 651 of the last session in 1996. The horse and dog racing industry is a long established regulated source of revenue for New Hampshire. In a sense, the state has been and still is a partner with the one horse track and the three dog tracks. However, one partner, the state, has gone in business for itself in competition with the race tracks in the gambling business. The state offers Megabucks, Power Ball, instant tickets, Cash Lotto, but still is getting a percentage of the gross revenue from its part-

ner, the tracks. This fact, plus other new forms of gambling opportunities, such as high stake bingo parlors, Fox Wood Casino in Connecticut, illegal slot machines by the thousands, all have created major problems for our race tracks. In fact, Mr. Connors, the long time chairman of the Pari-Mutuel Commission, testified before the study committee in September, the question being, What do you see for the future of the tracks? His reply was, "I can't see survival past the year 2000. I think that we are on the threshold of death right now." The study committee that included Senators Danaïs, Blaisdell and myself plus House members, felt that the unfair tax revenues, which only race tracks pay, was putting the future of racing industry in New Hampshire in jeopardy. In 1975, 14-1/2 percent of the state revenue, some sixteen million dollars came from pari-mutuel taxes. In 1995, under six tenths of one percent or five million dollars came to the state. Section one of this bill sets forth the purpose of this legislation. The study committee recognized that we should allow the race tracks the opportunity to experiment with new types of wagering. At the same time, we recognize that we should have a tax structure that allows all New Hampshire businesses to compete on a level playing field. Section two of the bill authorizes the Pari-Mutuel Commission to adopt the rules for new types of wagering. Section three of the bill restates current law, but allows the race tracks to keep all breakage and uncashed tickets. Section four clarifies law with regard to simulcasting. Section five clarifies the requirement of seventy-five calendar days of live racing. Section six deals with the tax structure. In addition, this new section requires each of the race tracks to file a report by March 31 of each calendar year to demonstrate that the tracks' effort to enhance live racing continues. Historically, the state of New Hampshire, when it deals with this issue has always passed legislation that further enhances live racing. Live racing being the original source of revenue, and the legislature has always demonstrated that it supports that live component. Section seven of the bill requires the state to pay for the stewards, judges and veterinarians. Under current law, each of the race tracks is responsible for these obligations. Section eight of the bill deals with unclaimed tickets. The proceeds of unclaimed tickets are currently split between the track and the state. Section nine of the bill repeals various statutes that are affected by other sections of the bill. The pari-mutuel industry employs in excess of 2,000 New Hampshire residents. The four race tracks make a substantial and direct economic contribution to their communities through payment of property taxes and daily fees. The committee has determined that each of the race tracks has a significant, positive effect on the economies of the local communities. In fact, a report that was done in 1988, pegged the economic impact from horse racing at six million dollars annually. We, in fact, tax our tracks differently than other businesses in the state. Tracks also pay property taxes, business profits taxes, BET, rooms and meals taxes, payroll taxes and all other fees and taxes like other businesses. In addition, the state takes for itself, from the gross sales, not the net sales, an additional assessment. I have tried to make a case for why the committee felt that we had to make adjustments in the tax structure, at the same time we are faced with the issue of revenue to the state. This bill would cost the state a projected \$4.6 million in loss revenue. The committee members recognize that this loss of revenue is not going to be supported by the legislature. What we are recommending that the Senate do, is pass SB 216 which will go to the Finance Committee. In the Finance Committee our goal will be to find a way to enhance the revenues to the tracks of some \$1 million to \$1.2 million. Now the question could very well be asked, You have been

at this since June, why don't you have a plan? I would only suggest to those of you who may not have had any communications with race tracks in recent weeks and there may be some here, but I doubt it, that getting four race tracks together to agree on anything, is difficult. We have tried. We feel with this bill in the Finance Committee and with the commitment to try to find some reduction in their taxes, that we may be successful. Obviously, the action will still be subject to review by this body. The goal of this bill and the bill to follow, is to generate enough additional revenue between the enhancements in SB 216 and the additional revenue that we think SB 196 may produce for the state, to end up with a revenue neutral, is the situation between the two bills, so that in fact, there will be no loss of revenue to the state. The tracks will get their enhancements, not as much as they deserve, in my opinion, because I clearly think that they are taxed unfairly, but it will be some assistance. We think that we can make it revenue neutral. So the committee recommends that the Senate pass SB 216.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 196-FN-L, relative to pari-mutuel wagers and defining "resort hotel." Ways and means Committee. Vote: 4-3. Ought to pass with amendment, Senator F. King for the committee.

1997-0745s

04/02

Amendment to SB 196-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT allowing the transmission of simulcast races at grand hotels.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court finds that:

I. The pari-mutuel industry provides substantial and positive impacts on the economies of the local communities in which racetracks are located, as well as that of the state of New Hampshire. The pari-mutuel facilities pay substantial local property taxes and fees and provide jobs to thousands of New Hampshire residents. The pari-mutuel industry is also a significant part of tourism in the state.

II. The grand hotels in New Hampshire provide substantial and positive impacts on the economies of the local communities in which they are located, as well as that of the state of New Hampshire.

III. The pari-mutuel industry and the grand hotels face substantial competition from various sources. Racetracks in other jurisdictions are assessed lower taxes and receive substantial incentives to support this industry. Large resort hotels in other states have access to state-created amenities to attract year-round guests.

IV. The general court specifically finds that allowing simulcasting at grand hotels may produce benefits for the pari-mutuel industry, the grand hotels, and the state through increased revenues and interest in the pari-mutuel industry.

2 Exception for Simulcast Racing. Amend RSA 179:19, V to read as follows:

V. Licensees shall not allow gambling or wagering on their premises, except if the licensee holds a license under the provisions of RSA 284:22-b.

3 Rulemaking; Pari-Mutuel Commission. Amend RSA 284:12, IV to read as follows:

IV. The sale of pari-mutuel pools as authorized under RSA 284:22 [and], RSA 284:22-a, **and RSA 284:22-b.**

4 New Section; Pari-Mutuel Pools for Simulcasting at Grand Hotels. Amend RSA 284 by inserting after section 22-a the following new section:

284:22-b Pari-Mutuel Pools for Simulcasting at Grand Hotels.

I. In this section:

(a) "State" means each state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(b) "Simulcast" means a grand hotel licensee's receipt of the transmission of races conducted at a racetrack within or outside of the state of New Hampshire and which races are exhibited simultaneously at the grand hotel licensee's facility by television or other means of electronic reproduction with the conduct of such races at the point of origin and on which races the grand hotel licensee sells pari-mutuel pools.

(c) "Grand hotel" means a facility which operated with a minimum of 195 rental units in a single structure available to the public during the calendar year 1996, has restaurant facilities in common ownership, restrooms, and bathing facilities, public telephones, an attached 18-hole golf course in common ownership with the grand hotel facility and adequate parking for patrons.

(d) "Grand hotel licensee" means a grand hotel which operates as a grand hotel in a calendar year and is licensed by the pari-mutuel commission to sell pari-mutuel pools in accordance with RSA 284:22-b.

(e) "Grand hotel licensee facility" means the place within the grand hotel which existed as of January 1, 1997, and is the sole location within the grand hotel where the grand hotel licensee may sell pari-mutuel pools.

II.(a) During calendar years 1997-2009, a grand hotel licensee may sell pari-mutuel pools on simulcasts of dog racing, thoroughbred horse racing, and harness horse racing, provided:

(1) The grand hotel licensee obtains a license from the commission in accordance with RSA 284:22-b, III;

(2) Such sales are within the enclosure of the grand hotel licensee facility;

(3) Wagers are made on simulcast races with the agreement or approval of the racetrack which provides the transmission of the races to be simulcast, the racetrack which conducts the races to be simulcast, and the racetrack or association entitled to market area consent under the Interstate Horseracing Act of 1978, as amended;

(4) The grand hotel licensee operates as a grand hotel during the calendar year in which it is licensed under this section; and

(5) The grand hotel licensee obtains the consents and approvals set forth in RSA 284:22-b, III and IV.

III.(a) A grand hotel licensee may sell pari-mutuel pools on simulcast races provided the grand hotel licensee obtains a license from the commission and has received approval from the city, town, unincorporated town, or unorganized place in which the grand hotel is located to accept wagers on simulcast races.

(b) In order to obtain a license, a grand hotel shall apply to the commission. The application shall be signed and sworn to by the person or executive officer of the entity which owns the grand hotel and shall contain the following information:

(1) The full name and address of the person who owns the grand hotel.

(2) If a person other than an individual, the state in which such person is formed and organized.

(3) The names and addresses of officers, directors, shareholders, managers, or partners of the person.

(4) The location of the proposed grand hotel licensee facility.

(5) A statement of assets and liabilities of the person making the application.

(6) Such other information as the commission may require.

(c) The applicant shall immediately inform the commission of any material change or anticipated material change in the information required by subparagraph (b). The commission may require, at the applicant's expense, that any financial information provided to the commission under this section be verified by an audit performed by a certified public accountant. The commission may also require that, as a condition of obtaining a license under this section or continuing to hold a license, the applicant or holder of a license make its books and records available so as to permit the commission to perform such independent auditing or financial analysis as the commission may deem necessary. All expenses incurred by the commission for such auditing or financial analysis shall be paid for by the applicant or holder of the license.

(d) The commission shall issue a license to a grand hotel if it is satisfied that the applicant meets the requirements of RSA 284:22-b, III(b) and (e) and the following conditions are met:

(1) The commission shall not issue a license to a grand hotel to simulcast greyhound dog racing if the proposed grand hotel licensee facility is within a radius of 40 miles of a place where live greyhound racing is already licensed and is being conducted pursuant to RSA 284:16-a.

(2) The commission shall not issue license to a grand hotel to simulcast horse racing if the proposed grand hotel licensee facility is within a radius of 40 miles of a place where live thoroughbred horse racing is already licensed and is being conducted pursuant to RSA 284:16.

(3) The applicant provides the commission with a bond in the amount of \$300,000 conditioned to faithfully make all payments required under this section and to otherwise comply with this section.

(4) The applicant complies with the disclosure requirements to the attorney general in accordance with RSA 284:15-b.

(e) No license shall be issued by the commission to a grand hotel until the city, town, unincorporated town or unorganized place in which the grand hotel is located, at an annual or special town meeting, or through a referendum if a city has, by a majority vote of those voting on the question, approved the issuance of a license to the grand hotel. The form of the question shall be substantially as follows:

Do you approve of [NAME OF GRAND HOTEL] accepting wagers on simulcast dog racing, simulcast thoroughbred horse racing, and simulcast harness horse racing in accordance with RSA 284:22-b on any or all days of the week including Sundays?

(f) Upon issuance of a license, the grand hotel licensee agrees to comply with all rules adopted by the commission and will operate in accordance with RSA 284, where applicable.

(g) The license issued by the commission to the grand hotel licensee is not assignable or transferable and shall expire on December 31 of the year in which it is issued, unless revoked by the commission.

IV.(a) A grand hotel licensee may sell pari-mutuel pools for simulcast races for races held at race tracks within or outside the state of New

Hampshire in accordance with RSA 284:22-b within the grand hotel licensee facility, or a grand hotel licensee, with the written agreement with the licensee which conducts or transmits the race which is to be simulcast, may sell a common pari-mutuel pool in conjunction with the licensee which conducts or transmits the race which is to be simulcast. In the event of common pools, the licensee which conducts or transmits the race shall pay the tax required under RSA 284:23 for the portion of the common pool actually contributed at the licensee's race track and the grand hotel licensee which simulcasts shall pay the tax due under RSA 284:23 for the portion of the common pool actually contributed at the grand hotel licensee facility.

(b) A grand hotel licensee may sell pari-mutuel pools for simulcast races for races held at racetracks outside the state of New Hampshire in accordance with RSA 284:22-b within the grand hotel licensee facility, or the grand hotel licensee, with the written agreement with the entity which conducts the race which is to be simulcast, may sell a common pari-mutuel pool in conjunction with the entity which conducts the race which is to be simulcast. In the event of such common pools, the commission shall be in the amount established by the law of the state in which the race to be simulcast is actually conducted, provided, however, the grand hotel licensee shall pay the tax as provided under RSA 284:23.

V. Each grand hotel licensee shall also pay to the treasurer of the political subdivision in which the grand hotel licensee facility is located for each day of simulcast racing the following fee based upon the aggregate of all pari-mutuel pools handled by the grand hotel licensee on such day:

- (a) Each weekday including Saturday:

<u>Pari-mutuel pool</u>	<u>Fee</u>
Under \$300,000	\$ 300 per day
\$300,000 or more	\$ 350 per day

- (b) Each Sunday:

<u>Pari-mutuel pool</u>	<u>Fee</u>
Under \$350,000	\$ 400 per day
\$350,000 but under \$500,000	\$ 800 per day
\$500,000 or more	\$ 1,200 per day

VI. Any employee or owner of the entity which provides the totalizer system to the grand hotel licensee, and any person responsible for the operation of the electronic reproduction equipment which receives the simulcast shall be prohibited from participating in wagering, directly or indirectly, on simulcast races shown at the grand hotel licensee facility.

VII.(a) RSA 284:22, I, II, III, and IV shall apply according to the type of race on which the simulcast wagers are made, excepting, however, interstate common pools as provided in RSA 284:22-b, IV(b) and that the provisions made for purses made in RSA 284:22, I shall not apply to simulcast races.

(b) Each grand hotel licensee shall contribute the following portion of the amount handled each day by the grand hotel licensee on horse racing (whether harness or thoroughbred) to the licensee which operates the live thoroughbred horse race track located within the state of New Hampshire for the promotion of live horse racing at the track, including supplements to purses of live horse racing and capital improvements of the race track:

<u>Period</u>	<u>Percentage of Handle on Horse Racing by Grand Hotel Licensee</u>
July 1, 1997 through June 30, 1998	1 percent
July 1, 1998 through June 30, 1999	2 percent
July 1, 1999 through June 30, 2000	3 percent
July 1, 2000 and thereafter	4 percent

(c) Each grand hotel licensee shall distribute the sums to be paid under subparagraph (b) to such licensee within 5 business days of the end of each month in which the grand hotel licensee simulcasts horse racing. Each March 31, the grand hotel licensee shall submit a report to the commission, which report shall indicate the amount distributed to the licensee during each month of the prior calendar year. Each March 31, the licensee shall submit a report to the commission and the fiscal committee, which report shall indicate the amount received by the licensee and the expenditures of such amount by the licensee in the promotion of live horse racing during each month of the prior calendar year.

(d) Each grand hotel licensee shall contribute the following portion of the amount handled each day by the grand hotel licensee on dog racing to the commission for distribution among the licensees which operate live dog racing tracks within the state of New Hampshire for the promotion of live dog racing at such tracks, including supplements to purses of live dog racing and capital improvements at such tracks:

<u>Period</u>	<u>Percentage of Handle on Dog Racing by Grand Hotel Licensee</u>
July 1, 1997 through June 30, 1998	1 percent
July 1, 1998 through June 30, 1999	2 percent
July 1, 1999 through June 30, 2000	3 percent
July 1, 2000 and thereafter	4 percent

(e) Each grand hotel licensee shall distribute the sums to be paid under subparagraph (d) to the commission within 5 business days of the end of each month. The distribution to each licensee shall be determined by multiplying such sum received by the commission by a fraction, the numerator of which shall be the number of live dog racing performances conducted by such licensee in the immediately preceding calendar year and the denominator of which shall be the aggregate number of live dog racing performances conducted by all such licensees in the immediately preceding calendar year. Each March 31, each grand hotel licensee shall submit a report to the commission, which report shall indicate the amount distributed each month during the prior calendar year. Each March 31, each licensee shall submit a report to the commission and the fiscal committee, which report shall indicate the amount received by such licensee in the prior calendar year and the expenditure of such amount by the licensee in the promotion of live dog racing.

VIII. RSA 284:15-b, RSA 284:31, RSA 284:32-a, and RSA 284:39 are deemed applicable to a grand hotel licensee and a grand hotel licensee facility, respectively. Each grand hotel licensee shall submit to the attor-

ney general all information required of other licensees under RSA 284:15-b and shall submit the financial information to the commission as required of other licensees by RSA 284:32-a.

5 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill allows grand hotels in the state of New Hampshire to simulcast races. The bill defines a "grand hotel" to mean a facility which operated with at least 195 rental units in 1996, has restaurant facilities, restrooms, bathing facilities, public telephones, an 18-hole golf course, and adequate parking.

The bill also establishes a fee schedule, which fees are to be paid to the city or town in which the grand hotel is located and a schedule for handle contributions which are to be distributed to the licensees operating live races within the state of New Hampshire. Grand hotel licensees are required to meet all applicable provisions of the laws governing pari-mutuel in the state.

SENATOR F. KING: This is the other half of the bookend. Senate Bill 196, relative to pari-mutuel wagers and defining resort hotels is a revenue enhancement bill that would allow resort hotels to offer simulcast wagering. The increase that we project from this bill, as I said before, we think will take care of the enhancement that we are trying to give the tracks and also to support the live racing that is in SB 216. The bill provides a fee schedule as to which fees are to be paid to the city and town in which the grand hotel is located. The schedule for handled contributions that are to be distributed to the licensees operating live races within state. Grand hotel licensees are required to meet all applicable provisions of the laws regarding pari-mutuel in the state. They will be required to get local approval from the community in which they are located. They will need to meet all local controls. The activity that will occur in these facilities will be controlled. The facilities already are dealing with liquor licenses and other types of activities that will have an opportunity and place where they can control this activity. The projected revenue that we believe will come to the state, will come in three areas. We project based on a study that the average three percent of the daily take on the bet that will be paid to the state will be between two hundred thousand dollars and two hundred and seventy thousand dollars. The increase in rooms and meals tax duty due to the fact that the hotels will remain open year round, the hotel that is in question will be open year round, would generate additional rooms and meals tax of between five hundred thousand dollars and five hundred and fifty thousand dollars. There will be an increase in that liquor revenue for the state of seventy-five thousand dollars. The average net increases due to allowing the pari-mutuel commission to develop the new technologies, will be another two hundred and fifty thousand dollars. We project that the revenue that will come into the state from the enhancements of SB 216 and the passage of SB 196 will be between \$125,00,000 and \$145,000,000. The committee recommends that the Senate pass SB 196.

SENATOR SQUIRES: I rise, Mr. President, to reflect a personal view, and also what I believe is the view of the district that I come from. The expansion on gambling is not in the interest of the state of New Hampshire. I think that we deceive ourselves if this bill is seen in any other light except of course, that it would produce more revenue for the state. It is

not the way that we should provide for our future. It is going to be a declining industry. I think that the establishment of an off-track betting parlor with the full approval of this legislative body is a mistake.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 9, relative to wagers at racetracks. Ways and Means Committee. Vote: 4-3. Inexpedient to legislate, Senator F. King for the committee. Senator F. King moved to have **SB 9**, relative to wagers at racetracks, laid on the table.

Adopted.

LAID ON THE TABLE

SB 9, relative to wagers at racetracks.

HB 228, relative to the definition of "club-veterans" under the liquor laws. Ways and Means Committee. Vote: 5-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAIS: House Bill 228, relative to the definition of "club-veterans" under the liquor laws, is a request of the Department of the New Hampshire American Legion. During a previous session, legislation was passed to tighten some of the ground rules of private clubs. During that process, the American Legion was inadvertently removed. This bill will correct that omission. The New Hampshire Liquor Commission supports this definitional change and vigorously supports this legislation. The committee on Ways and Means recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 341, relative to filing lucky 7 applications with the sweepstakes commission. Ways and Means Committee. Vote: 5-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill came about as a part of the LBA audit that came before us in the Fiscal Committee. Currently, the bingo licensing under RSA 287:5 requires a 15 day requirement for organizations to send in their reports whereas under the Lucky Seven portion of the RSA there is no requirement. This change would require both bingo and Lucky Seven application forms to be filled within a 15 day period of time. The Ways and Means Committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 349, repealing certain pari-mutuel laws relative to racing funds, disbursements of the funds, and records of receipts. Ways and Means Committee. Vote: 6-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: HB 349, an act repealing certain pari-mutuel laws relative to racing funds, disbursements of the funds and records of receipts, is a request of the Legislative Budget Assistant. This legislation came about as a result of an audit that recommended certain legislative changes in statute. Originally the statute was set up to deposit pari-mutuel taxes or pari-mutuel pools into three separate funds, for the running horse, the harness race fund and the greyhound fund. The budget for several bienniums, has had the expenditures of the pari-mutuel commission directly appropriated from the general fund and the

taxes on the pari-mutuel pools being deposited as general fund unrestricted revenue. In order to conform with current practice, which is to continue to place these funds in the general fund, it is necessary to amend the statute. The committee on Ways and means recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 539-L, relative to the tax lien process for quarterly tax bills in the city of Concord. Ways and Means Committee. Vote: 5-0. Ought to pass with amendment, Senator Blaisdell for the committee.

1997-0912s

09/01

Amendment to HB 539-LOCAL

Amend 1994, 203, VI(b) as inserted by section 1 of the bill by replacing it with the following:

For the purpose of establishing the real estate tax lien under the provisions of RSA 80:59, for the tax bills due and payable each year beginning with April 1, 1996, the real estate of every person or corporation may be subject to the tax lien procedure by the collector, in case all taxes against the owner shall not be paid in full on or before April 1 next after its assessment, instead of December 1 next after its assessment.

SENATOR BLAISDELL: Mr. President and members of the Senate, this is a housekeeping measure for the city of Concord. It is intended to clarify the treatment of the April 1, 1996 conversion tax billing for tax lien purposes in Concord. The bill was developed in coordination with the New Hampshire Department of Revenue Administration. It has the support of the Concord City Council as well as the Senator from the Concord area. The committee amended this bill by deleting the words "On April 1" simply because there are no bills actually due on April 1. The committee on Ways and Means recommend this bill be ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

Recess.

Out of recess.

SPECIAL ORDER

SB 126, prohibiting the state employee health plan from paying for abortions. Inexpedient to legislate. Insurance Committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, SB 126, it is not a pro-choice bill and it is not a pro-life bill. This is a bargaining bill that belongs before the bargaining rights in the state of New Hampshire. Attaching conditions to the design of the health insurance plan that covers state employees is rife with problems and offers no advantages whatsoever. I stand with the report, it is inexpedient to legislate.

SUBSTITUTE MOTION

Senator D. Wheeler moved to substitute ought to pass for inexpedient to legislate.

SENATOR D. WHEELER: Mr. President, today I ask my pro-choice respected and esteemed colleagues to give the pro-lifers of this state a

choice. This bill simply prohibits the state employees health plan, which is funded by the taxpayers, from funding abortions. Thomas Jefferson spelled out a governmental principal that very certainly applies to the taxpayer funding of abortions for public servants, he said, "To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors, is sinful and tyrannical." Simply put, it is wrong to force pro-life taxpayers and pro-choice taxpayers who believe that it is wrong to force other taxpayers of this state to pay for what they believe is murder. This bill is about murder and not about negotiating a contract. Congress has passed a similar measure for federal employees, and we likewise, should stop taxpayer funded abortions for the citizens of New Hampshire. I respectfully ask for a roll call.

Senator Blaisdell moved the question.

Adopted.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: Johnson, Rubens, Roberge, D. Wheeler, Francoeur, Podles, Barnes, J. King, Danais, Delahunty.

The following Senators voted No: F. King, Gordon, Fraser, McCarley, Patenaude, Whipple, Blaisdell, Squires, Pignatelli, Larsen, Russman, K. Wheeler, Hollingworth, Cohen.

Yeas: 10 - Nays: 14

Substitute motion of ought to pass failed.

Senator Blaisdell moved inexpedient to legislate.

Adopted.

SB 126 is inexpedient to legislate.

SB 202-FN-A-L, relative to the certification and termination of teachers, school discipline, high school graduation examinations and making an appropriation therefor, relative to school building aid, and making an appropriation for foundation aid. Education Committee. Vote: 4-3. Ought to pass with amendment, Senator Rubens for the committee.

1997-0930s

04/01

Amendment to SB 202-FN-A-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT relative to the certification of teachers, high school graduation examinations and making an appropriation therefor, school building aid, and establishing a committee to study school discipline and manifest educational hardship.

Amend the bill by replacing all after the enacting clause with the following:

1 Prerequisites for Teacher Certification and Recertification. Amend RSA 186:11, X(a) to read as follows:

(a) Certification of teachers, supervisors, and administrators in the public schools. *As a prerequisite for teacher, supervisor, and administrator certification and recertification, the candidate shall achieve a satisfactory score on assessments of basic skills, including mathematics, reading, and writing. As a prerequisite for cer-*

tification and recertification, teachers shall achieve a satisfactory score on a subject matter assessment in their content area of academic focus. Satisfactory scores for candidates for primary school teacher certification shall be at least a tenth grade level on all but one of the required academic skills assessments. Satisfactory scores for candidates for supervisor, administrator, and secondary school teacher certification shall be at least a twelfth grade level on all but one of the required academic skills assessments. Certification shall not be construed to restrict the powers of administrators or school boards to dismiss, non-renominate, or non-reelect a teacher. The state board shall also examine the qualifications of candidates for those positions and issue certificates to those who meet the requirements of said rules.

2 Application of Section 1.

I. Assessments shall be required for all initial certifications granted on or after January 1, 1999.

II. Assessments shall be required of all candidates not previously assessed as a requirement for certification or recertification for the candidate's first recertification granted on or after January 1, 1999.

3 Failure to Meet Time Frames; Hearings Relative to Failure to be Renominated or Reelected. Amend RSA 189:14-a, I(b) to read as follows:

(b) Any such teacher who has taught for 3 consecutive years or more in the same school district and who has been so notified may request in writing within 10 days of receipt of said notice a hearing before the school board and may in said request ask for reasons for failure to be renominated or reelected. For purposes of this section only, a leave of absence shall not interrupt the consecutive nature of a teacher's service, but neither shall such a leave be included in the computation of a teacher's service. Computation of a teacher's service for any other purposes shall not be affected by this section. The notice shall advise the teacher of all of the teacher's rights under this section. The school board, upon receipt of ~~[said]~~ **such** request, shall provide for a hearing on the request to be held within ~~[15]~~ **60** days. The school board shall issue its decision in writing within ~~[15]~~ **90** days of the ~~[close of the hearing]~~ **date of the teacher's request for a hearing.**

4 Failure to Meet Time Frames; Review by State Board. Amend RSA 189:14-b to read as follows:

189:14-b Review by State Board. A teacher aggrieved by such decision may request the state board of education for review thereof. Such request must be in writing and filed with the state board within 10 days after the issuance of the decision to be reviewed. Upon receipt of such request, the state board shall notify the school board of the request for review, and shall forthwith proceed to a consideration of the matter. ~~[Such consideration shall include a hearing if either party shall request it.]~~ The state board shall issue its decision within ~~[15]~~ **60** days after the request for review is filed~~[-and]~~. The decision of the state board shall be final and binding upon both parties.

5 New Paragraph; Collective Bargaining Agreements Subject to Arbitration. Amend RSA 273-A:4 to read as follows:

273-A:4 Grievance Procedures. Every agreement negotiated under the terms of this chapter shall be reduced to writing and shall contain workable grievance procedures. **No grievance resulting from the failure of a teacher to be renominated or reelected, pursuant to RSA 189:14-a, shall be subject to arbitration or any other binding resolution, except as provided by RSA 189:14-a and RSA 189:14-b. No**

teacher evaluation by a school district shall be subject to arbitration or any other binding resolution. Any such provisions in force as of the effective date of this section, as amended, shall be null and void upon the expiration date of that collective bargaining agreement.

6 Statement of Purpose. The purpose of sections 7-13 of this act is to:

I. Identify and provide recognition to students who excel academically.

II. Establish the New Hampshire academic diploma as a widely accepted and meaningful indicator of educational achievement at levels equal to, or exceeding that of, the world's top performing nations.

III. Provide objective means by which parents, taxpayers, and communities can compare the performance of students, schools, and school districts with each other and with the world's best high standards benchmarks which establish what high school graduates should know and be able to do.

IV. Develop and maintain the academic diploma assessment in concert with the statewide education improvement and assessment program.

7 Advocates for Educationally Disabled to be Consulted. Amend the introductory paragraph of RSA 193-C:3 to read as follows:

There is established within the department of education a statewide education improvement and assessment program. The commissioner shall develop and implement this program in conjunction with the state board of education and the legislative oversight committee. In carrying out this program, the commissioner shall consult widely with educators at all levels, advocates for educationally disabled pupils, business people, government officials, community representatives, and parents.

8 Limitation of Questions on Assessments. Amend RSA 193-C:5 to read as follows:

193-C:5 Areas of Assessment. The academic areas to be assessed shall include, but not be limited to: reading and language arts, mathematics and science, and history and geography. ***Assessments shall include no questions of a personal or private nature.***

9 New Section; High School Graduation Assessment Required. Amend RSA 193-C by inserting after section 6 the following new section:

193-C:6-a High School Graduation Assessment.

I. The academic diploma assessment shall be constructed with a minimum successful numeric score indicating academic achievement at levels at least comparable to high school graduates in the world's top performing nations.

II. Notwithstanding any other provision of law, no public or charter secondary school pupil shall be granted a diploma unless such pupil has taken the New Hampshire academic diploma assessment. Failure to attain a minimum successful score shall in no case be cause to deny a graduation diploma to a pupil.

III. Academic diploma assessment shall be administered once each year at state expense to all twelfth grade pupils with suitable provision for make-up for a pupil who is unavoidably absent. A pupil may take the academic diploma assessment when administered at the pupil's school at any earlier grade level if granted permission to do so by the school principal. A pupil who fails to attain a minimum successful score may take the academic diploma assessment when administered up to 2 additional times until the pupil reaches the age of 21.

IV. A pupil attaining at least the minimum successful score and otherwise qualifying for high school graduation shall be granted a New Hampshire academic diploma signed by the governor, school principal, superintendent, and chair of the local school board.

V. Each body exercising decision-making authority over the graduation assessment or its administration shall take all actions by recorded vote. Limited immunity from liability shall be granted to each individual involved in development or administration of the graduation assessment.

10 Pilot Program; High School Graduation Assessment. A pilot program for the high school graduation assessment shall be administered during the school year beginning in 1999 based on the provisions of section 13 of this act. The department of education shall determine the school district in which the pilot program shall be implemented.

11 Statewide Implementation; High School Graduation Assessment. Statewide administration of the high school graduation assessment shall be implemented during the school year beginning in the year 2000.

12 Contest to Name Academic Diploma. There shall be a contest held to name the high school academic diploma under RSA 193-C:6-a. The state board and legislative oversight committee shall choose the name of the academic diploma from among the entries. All public school pupils shall be eligible to enter such contest. An award in the amount of \$1,000 to be utilized for postsecondary education shall be granted to the winner of the contest.

13 Appropriation.

I. The sum of \$1,000 is appropriated to the department of education for the fiscal year ending June 30, 1998, to grant the award to the winner of the contest to name the academic diploma in section 12 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The sum of \$300,000 is appropriated to the department of education for the biennium ending June 30, 1999, for the development of and the pilot program for the high school graduation assessment program.

14 Statement of Purpose. It is the purpose of section 15 of this act that the legislature encourage all districts to build cost-effective and economical school buildings, and encourage year round schooling.

15 School Building Aid. Amend RSA 198:15-b, I to read as follows:

1.(a) The amount of the annual grant to any school district duly organized, any city maintaining a school department within its corporate organization, any cooperative school district as defined in RSA 195:1, or any receiving district operating an area school as defined in RSA 195-A:1, shall be a sum equal to 30 percent of the amount of the annual payment of principal on all outstanding borrowings of the school district, city, cooperative school district or receiving district, heretofore or hereafter incurred, for the cost of construction or purchase of school buildings and school administrative unit facilities, to the extent approved by the state board of education, provided that any school district may receive an annual grant in the amount of 40 percent for the construction of an educational administration building for school administrative unit, and provided that the amount of the annual grant in the case of a cooperative school district, or a receiving district operating an area school, shall be 40 percent plus 5 percent for each pre-existing district in excess of 2 and each sending district in excess of one, and provided further that no cooperative school district, or receiving district operating an area school, shall receive an annual grant in excess of 55 percent.

(b) For any district, the cost of renovations, or new construction such as air conditioning, to make new or existing buildings

suitable and used for year round schooling shall be entitled to aid at 75 percent of the cost of such renovations for so long as the district maintains a year round school program in the building receiving aid. Fifty percent of the aid shall be reimbursed if a town abandons year round schooling within 5 years of the first year of receipt of such aid.

(c) School building aid shall be increased 3 percent above the amount to which a district is otherwise eligible, except for year round aid, which shall be limited to 75 percent, if the district uses generic, adaptable architectural plans for its building proposal and if the district can demonstrate total project savings of at least 3 percent as a result of having used generic architectural plans.

16 Application. Section 15 of this act shall apply only to school building aid grants approved on or after July 1, 1997.

17 Committee Established.

I. There is established a committee to study issues relating to school discipline and manifest educational hardship.

II. The members of the committee shall be as follows:

(a) Three members of the senate, 2 of whom shall be members of the senate education committee, appointed by the president of the senate.

(b) Three members of the house, 2 of whom shall be members of the house education committee, appointed by the speaker of the house.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

IV. The committee shall examine issues relating to school discipline and manifest educational hardship.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. Four members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

18 Effective Date.

I. Sections 1-5 of this act shall take effect January 1, 1998.

II. Section 17 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill:

I. Revises certain provisions relative to the teacher certification process.

II. Establishes a high school graduation assessment program, and makes an appropriation for such program and for a diploma-naming contest.

III. Revises the provisions relative to the amount of annual grants for school building aid.

IV. Establishes a committee to study issues relating to school discipline and manifest educational hardship.

SENATOR RUBENS: Senate Bill 202 has been through several major revisions, the last being before the Senate Education Committee resulting in the Education Committee amendment now before us, which be-

gins on page twenty-one down near the bottom of the Senate Calendar. The bill incorporates some of the tougher but primarily non money issues relative to improving education. I call these quality and accountability issues. There are four parts to the bill, a teacher certification test, the reform of de facto teacher tenure, a high school graduation test and incentive building aid for year round schooling at local option. The bill contains three hundred thousand dollars in spending in the biennium for the graduation test that would be part of the state's assessment test program, likely to be more than offset by the year-round building incentive aid savings as a result of a reduction in general funds expenditures. If you will notice the budget this year, you will see pretty close to forty million dollars in state general fund money being requested for building aid during the coming biennium, a very large sum of money. Every word of this bill is supported by the New Hampshire School Board Association and the Granite State Taxpayers, groups that rarely agree on anything. Evidence that I have been offering for several months now, that a new consensus has emerged in New Hampshire, that we need to act now to take tough actions to improve schools. Sections I and II of the bill deal with teacher competency testing. The bill requires a single test during a teacher's professional career of competency in the basic skills including math, reading and writing and in a subject area, an initial certification where the teacher might specialize, and a rectification test once only, for teachers who were not tested at initial certification. The tests begin to take effect in 1999. It allows teaching colleges and teachers now in the profession between two and roughly four years to prepare for the test that requires at the elementary grade level, a tenth grade level of knowledge on math, reading and writing on two of three of those tests. Just two of three of them are tenth grade level of knowledge. The test is paid for by the teachers at the time of initial certification or certification. Thirty-eight states now require some form of teacher examination some time before the teaching certificate is granted. All but 12 states, including New Hampshire require some type of exam after the teacher gets out of college. So New Hampshire is among only 12 states that do not require this type of testing. Sixteen states require a state or a local examination required at the time of re-certification. The bill does not do anything that is extraordinarily different from what other states have done. New Hampshire required competency tests by statute between 1895 and 1969. In 1969 the competency test requirement was removed from statute. Returning to what worked and what was proven not to work when the test requirement was removed, the State Board of Education, by rule, required testing during 1986 and 1987. Passing grades in those two years were set at approximately the eighth grade performance level. Approximately 30 percent of test takers for initial teachers being certified, approximately 30 percent failed to pass all three tests at the eighth grade level. Under intense political pressure from the state's teaching colleges, who could no longer guarantee, I take it, jobs for their graduates, the test requirement was removed and the rule requiring those tests be removed by the State Board of Education. Presently, the replacement for those tests is this one page document called a certificate of proficiency. This is the means by which the vast majority of teachers in our state are now certified, which is a state function, indicating that these teachers are suitable for employment in our school districts to teach our public school students. This certificate of proficiency is signed by the teaching colleges. It says "This teacher is proficient in basic reading, writing and mathematical skills." The fox is guarding the

hen house, signing a document without any objective evidence that the teacher is suitable for teaching children in our classrooms. We are not insulting architects, doctors, engineers, surveyors, barbers and hundreds of other professions in this state that we test, before we grant them a license or a certificate to practice their profession in the state. We would not dare allow an engineer to go about the task of designing a bridge without indicating objectively to the people of the state that they have the skills required to design that bridge because we would be subjected to the risk of bridges blowing over in the wind. We do not certify and license architects in this state without testing them in advance because we do not want buildings falling down on people in the same way. I feel that this same type of protection for our children is required to pull us up on qualitative standards. Section III through V of the bill, the second part of the bill, deal with what we have in the state, which I call de facto teacher tenure. About 50 to 75 percent of the districts in the state have impossible-to-prove just cause grievance procedures for the non reelection, a.k.a. of firing of teachers. It can cost up to fifty thousand dollars and up to three years per grievance to fire an incompetent or mediocre teacher given these collective bargaining agreement provisions. Districts are exposed to back pay liability and there are three routes by which a teacher can now contest a firing or a non renewal. One, the statutory provision, collective bargaining grievance provisions and an appeal under the public employee labor relations board process. I am going to quote from the chairman of the Kearsage school district, my own district, speaking for his entire board which like the states' school board association has unanimously endorsed this bill, I am going to quote from him reflecting the views of his board, "We strongly support all of the proposed changes as a necessary strengthening of the ability of the elected officials to manage personnel matters. The present situation makes it extremely difficult to renew a grossly incompetent teacher and virtually impossible to non-renew a poor or mediocre teacher." This is a member, this is a chairman of a school board in the state, a highly esteemed school board member and chairman in the state and in the Kearsage school district, one of our larger districts geographically. Stating that it is virtually impossible, under present law, to fire a poor or mediocre teacher, SB 202 reduces the three track or means process of firing a teacher down to a single statutory track that is in the bill, that the present statutory track with a bit more time allotted instead of the 15 days that the law now allows, it is expanded up to 60 days. The appeal process is an appeal if a teacher is aggrieved by a firing by the local board, appeal back to that local school board if the teacher is unsatisfied with that decision appealed to the state board and finally, to the Supreme Court. By that means, the teacher's due process rights remain protected so that the school boards may not fire teachers for political reasons. For example, a teacher who might be unpopular or might have unpopular philosophical views. Those are not valid reasons to fire a teacher. School boards will continue to have to document and objectively, prove, and demonstrate, why it makes sense to fire that teacher. SB 202 in short, this part of it restores a proper balance between teacher protections and the rights of school boards. Really this is the most critical part of the bill, the rights of the school board to set qualitative standards such that they can guarantee quality teachers in the classrooms during the years' terms for every child in the state. This is how we do this. You have to empower school boards to do that. This is why, again, the school boards association of the state, unanimously and wholeheartily endorses the bill. Sec-

tions VI through XIII deal with a graduation assessment test. President Clinton is calling for such tests. However, the federal government has no authority to require them. We at the state level, we are the people who have the authority to do this. Over half the states in the country have some type of graduation test, most of them are minimum standard type test. I am proposing a high standard test benchmark, the world's standard. There are four states in the country that have such a test. The longest known of such test are in New York state where they have the Regen Exam. Michigan, Ohio and Tennessee also have such a test as I am proposing here which is an honors type test. A graduation certificate from a student who doesn't perform at an honors level, they still retain their graduation certificate. No one who does any level performance on the test has their diplomas withheld but they get an honor if they do well on this test. This is added to our existing state assessment test program that operates at the three, six and ten level. The same means is going to be used to develop it, pilot it in 1999 and wrapped up statewide in the year 2000 and continuously benchmark the world's highest achieving high school students. The state pays for it and the appropriation of three hundred thousand dollars in this biennium is to be used for assessment test development. This test is an enormous value to students because those who really want to excel in high school, now have an objective yard stick to demonstrate to the world that they have excelled. We now do not have any such objective meaningful yard sticks. Secondly, those students will have a means to go out to the world, either a college or an institution of higher learning or a job and demonstrate their level of competence. This will cause schools to improve more rapidly. The last part of the bill is an incentive aid program for year round schooling grants. Being very brief, I think I can read this. These are incentives, no mandates are involved and this should result when taken up by some school districts in the state in some significant savings to the general fund because rather than paying 30 to 55 percent of one hundred dollars a square foot, which is a new school building's cost, you are paying 75 percent of six dollars a square foot by using the unused part of the building. And finally, the bill contains a study committee on the discipline issue. In six hours of testimony on this bill only five people testified against the bill. Since then, one of them, the School Board Association, has switched to full support. If we are serious this year about tackling education improvement, and it really is the number one issue and this is not rhetoric. The people of the country and the state have clearly registered that education improvement is the number one issue. We have got to do things on public education that go beyond just money issues. We have got to do things that aim at the quality and accountability end and if we are going to respond appropriately to the people in the state, we have to do some of the tough love actions and we have to do them this year, we can't delay them. With that, I will sit down.

SENATOR LARSEN: You think that you had to listen to a long dissertation now, you should have been there at the hearing before we amended this bill down. Senator Rubens said a new consensus has emerged. I have never heard consensus out of two groups from the whole state being in support. There is no new consensus. We still have problems with this bill. One of the issues that he spoke to was teacher certification. You need to think about the issue of recertification that is also required in SB 202. You are going to have teachers of 20 years having to going back in and take recertification tests. This is a slap in the face of experienced teachers and, I think, a very difficult requirement and one

that is unnecessary. We also have in this bill a graduation test. We are going to spend three hundred thousand dollars in a pilot study to question whether our kids ought to graduate. It is not a question of them not graduating but what kind of blackballing are we doing to our graduates, those who in those first years haven't been tops in the test and don't do well. Are we going to send them out to go look for jobs, people we want to be employed, are we going to send them out with a blackball saying that they didn't pass their graduation test? I want you to think about how this affects young people as they are job searching, and I want you to think about how this affects our efforts on economic development in this state. How are we going to attract and grow businesses when in the first years before we start teaching to the tests, we have got problems with it showing that our graduates are perhaps not all at the upper level. We do have the three, eight and ten assessment tests. Those are the years when you have the chance to help the student improve their testing and improve their graduation rates and improve their understanding of the materials. By the time that they are at graduation, it is too late, folks. So a graduation test makes no sense. We have great use for those three hundred thousand dollars. I'll bet Junie Blaisdell has some ideas for it. But I also think that we could spend it on kindergarten, we could spend it on any number of things, but to spend three hundred thousand dollars to test our graduates, is a waste of money. I urge you to vote down SB 202.

SENATOR MCCARLEY: Most of the laugh lines have been taken away, so I will indicate that I can talk probably as fast as Senator Rubens and as long on the quality of education, but today, in deference to the rest of the Senate, I will keep my remarks somewhat short. Senator Larsen has touched on some things that trouble her that are still in the bill. I would like to mention one other one. Senator Rubens indicated that this bill is about empowering school boards to set high standards for education. I would argue that this bill has nothing to do with that whatsoever. There were some references in this bill originally to standards, which have actually been removed. They are not still in here. The issue of arbitration and allowing teachers by virtue, by having gained that right through collective bargaining, is a very central part to this legislation. All of us who have ever sat on school boards, who have ever sat on collective bargaining sessions, can be frustrated by those issues that we have lost, but you win or lose those at the bargaining table. I believe, currently, we have a situation relative to where our state board of education is. The teachers would actually not have a right beyond that one full-blown hearing at your local school board level to have another opportunity to have their case heard completely, not simply on procedural issues. I don't think that is what this legislature should be up to. I think that as frustrated as we all are, we don't solve our bargaining issues in this legislature. I don't think that it is a practice that we should start now with this bill. I also think that overall, that there are lots of very good sounding words in this bill. I believe that ultimately, there is nothing in it that is going to have any impact whatsoever on the quality of education. Thank you.

Senator Rubens called for a roll call.

Senator Rubens withdrew his request for a roll call.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HCR 2, urging all school districts in the state of New Hampshire to implement peer mediation programs. Education Committee. Vote: 7-0. Ought to pass with amendment, Senator McCarley for the committee.

1997-0918s

04/01

Amendment to HCR 2

Amend the resolution by replacing the title of the resolution with the following:

A RESOLUTION encouraging all school districts in the state of New Hampshire to implement peer mediation programs.

Amend the resolution by replacing all after the title with the following:

Whereas, conflict is a natural human state often accompanying personal growth or changes in our institutions, and is better approached with skills than avoidance; and

Whereas, means are needed to deal with conflict in the school setting in addition to expulsion, suspension, court intervention, or detention; and

Whereas, the use of mediation to resolve school-based disputes can result in improved communication between and among students, teachers, administrators, and parents and can, in general, improve the school climate, as well as provide a forum for addressing common concerns; and

Whereas, the use of mediation as a conflict resolution method can result in a reduction of violence, vandalism, chronic school absence, and suspension; and

Whereas, mediation training helps both young people and teachers to deepen their understanding about themselves and others and provides them with lifetime dispute resolution skills; and

Whereas, mediation training increases students' interest in conflict resolution, justice, and the American legal system, while encouraging a higher level of citizenship activity; and

Whereas, recognizing that young people are competent to participate in the resolution of their own disputes encourages student growth and gives students skills, such as listening, critical thinking and problem-solving, which are basic to all learning; and

Whereas, mediation training, with its emphasis upon listening to others' points of view and the peaceful resolution of differences, assists in preparing students to live in the world; and

Whereas, mediation provides a system of problem solving that is uniquely suited to the personal nature of young peoples' problems and is frequently used by students for problems they would not take to parents, teachers, or principals; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That all school districts in the state of New Hampshire be encouraged to implement peer mediation programs in all of their schools; and

That the clerk of the house of representatives transmits copies of this resolution to the governor, the department of education, all school administrative units and local school districts in the state, and the state library.

AMENDED ANALYSIS

This house concurrent resolution encourages all school districts in the state of New Hampshire to implement peer mediation programs.

SENATOR MCCARLEY: This Concurrent Resolution urges all school districts in New Hampshire to implement peer mediation programs. Peer mediation is proved to be extremely beneficial to students and is an effective way to resolve conflicts in the schools. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senator D. Wheeler in opposition to HCR 2.

HB 450, relative to accessing directory information as defined by the Family Educational Rights and Privacy Act. Education Committee. Vote: 7-0. Ought to pass with amendment, Senator Larsen for the committee.

1997-0926s

04/09

Amendment to HB 450

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Directory Information Which May Be Disclosed. Amend RSA 189 by inserting after section 1-d the following new section:

189:1-e Directory Information. A local education agency which maintains education records may provide information designated as directory information consistent with the Family Educational Rights and Privacy Act (FERPA). Each year schools shall give parents public notice of the types of information designated as directory information. By a specified time after parents are notified of their review rights, parents may ask to remove all or part of the information on their child that they do not wish to be available to the public without their consent. Items of directory information, which is information not generally considered harmful or an invasion of privacy if disclosed, may include:

I. Name of a student.

II. Field of study.

III. Weight and height of athletes.

IV. Most recent previous school attended.

V. Date and place of birth.

VI. Participation in officially recognized activities and sports.

VII. Date of attendance, degrees, and awards.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill specifies items of directory information, which is information not generally considered harmful or an invasion of privacy if disclosed consistent with the Family Educational Rights and Privacy Act (FERPA).

SENATOR LARSEN: House Bill 450 specifies the types of information which schools may disclose in student directories as those defined by the Federal Family Educational Rights and Privacy Act. Items used in the directory information are items of information that are not considered harmful or an invasion of privacy. The bill originally provided that schools had to contact parents each time they wanted to disclose any of the items of information. The committee heard testimony that this would be onerous for the schools. The amendment proposes allowing the schools to send home a list of all information considered to be directory informa-

tion. The parents then may choose whether they want any of the information removed from the directory information list. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senator D. Wheeler in opposition to HB 450.

SB 184, relative to leasing state submerged lands. Environment Committee. Vote: 5-0. Rereferred to committee, Senator Russman for the committee.

SENATOR RUSSMAN: This bill has the interesting concept of leasing submerged lands in the form of docks and things of that nature. The attorney general's office had asked us to take a look at that. The people that are involved with it have asked that the bill be rereferred so that they could have another year to examine it more closely and perhaps come back with legislation for the next time.

Committee report of rereferred is adopted.

SB 140, requiring that nuclear power facilities be bonded for the cost of potential decommissioning and relative to annual public hearings of the nuclear decommissioning committee. Executive Departments and Administration Committee. Vote: 4-3. Rereferred to committee, Senator Whipple for the committee.

SENATOR WHIPPLE: Senate Bill 140, requiring that nuclear power facilities be bonded for the cost of potential decommissioning and relative to annual public hearings of the nuclear decommissioning committee. After much deliberation and in the interest of producing the most refined piece of legislation, the ED & A Committee recommends SB 140 be re-referred.

SENATOR HOLLINGWORTH: I appear to speak to you today because this is perhaps one of the most important pieces of legislation that I think is going to come before this process. As you all know, this legislature, last year, supported deregulation because we believed that the state of New Hampshire can no longer stand the highest fees in the nation of electrical rates. Our economy depends on it. This piece of legislation, I think, is a step to that deregulation. If we vote against this, I think that we are seriously putting deregulation in a position where all of the ratepayers in New Hampshire, regardless of whether you use the nuclear power or not, because current law, which I was involved in, it was a piece of legislation back years ago. Many of you don't know me, I am new to you this session. I am kind of a new legislator, but in fact, I was in the House for ten years before I came here and then I spent two years here in the Senate. One of my first pieces of legislation, because Seabrook lies within my district, was to make sure that the ratepayers of the state of New Hampshire, and the state of New Hampshire, were protected and the people in the district would be protected. That there would be funds for decommissioning when this took place. Fortunately, that fund has worked very well until now. But with deregulation it has changed what is happening in the market. The NRC, itself, made a ruling that they needed to look at decommissioning because things are different. That because of deregulation the people who are going to be generating the power are not the same people who are going to have the ratepayers. In fact, many of you know that there is this company right now that NRC

has ordered them, and this is a document here that says, "Great Bay, has to have a bond" because they no longer are going to be a utility in the form that we know them. So already today, that is a situation that has taken place and we are soon to see more of that. The reason that I ask for a rerefer is because I think that the bill is so important, that I wanted to be sure that we have protected the utilities that are out there like the New Hampshire Co-op. Years ago, again, back in my role, I ran for Co-op director and warned at that time, that they should not buy under PSNH because PSNH offered them this deal. What I said when I ran, "If the deal is too good to be true, then it is too good to be true" and as we know, that half of PSNH's utilities have gone under bankruptcy. Though it gives me no comfort in having been right in those situations, at this time, I hope that you will somehow find it in your hearts to accept that what I am telling you is truth and that we need to take the words from the PUC. Doug Patch told us clearly, that in his document, that the lawsuit, the decision that he made on deregulation, he said that the legislature has to look at deregulation. He clearly stated that the current law interprets that the rate will be for everyone whether you use nuclear power or not, that will mean that we will need to have, at the end of the lifetime of the plant, a billion dollars. In today's dollars we are talking about \$253,000,000. In the fund that exists now, there is fifty million that means that two hundred million have to come from all of the rate payers, unless we, as the legislature, unless as they have requested us, to look at it. Now there is an oversight committee in the House that is dealing with the deregulation and I think that they are the proper ones to help us find the solution. But if we act now on this piece and vote not to pass it, we stand to place at risk, who will be responsible. Will it be the state of New Hampshire? I raised a question four years ago, actually six now, when I first ran for the Senate, because before the BFA, the Business Finance Authority, which was then the IDA, we were lending money to a utility that had no assets and twenty-two million dollars later and a lawsuit, they made a lawsuit against me. Many of you that weren't here, I was sued by the utility because I dared to say that you can't give twenty-two million dollars to that company who has no assets. In fact, what happened? Six weeks later they went bankrupt. Again, I hate to tell you so, and I hate to say that this is the kind of thing that we need to protect our state against. But if you choose not to look towards my decision, please look to what the PUC has had, both of their rulings. Doug Patch has testified before the committee and Jim Anderson testified before the committee. I would urge you to go slow, just as I backed away when I thought that there was a problem that I didn't want to deal with, something that was before the courts and that I would put any utilities in jeopardy, I decided that I would ask the committee if they would study this for a year, and allow the court cases to move forward, and to allow the NRC to take and make those decisions that they will make in the next few months. I am asking you to please, please, do what is right for the state of New Hampshire and the ratepayers and put this bill back into committee to allow it to be studied.

SENATOR GORDON: Senator Hollingworth, I just want to understand the effect procedurally here, more than anything else. I am concerned because most of my constituents are served by the New Hampshire Electric Co-op. I know that they have expressed concern to me that under the bill as it was originally constructed, they would have to pass on significant costs onto their members.

SENATOR HOLLINGWORTH: Right.

SENATOR GORDON: So I am very concerned about that. But the question that I think that we are going to be faced with is, whether to rerefer the bill or to make it inexpedient to legislate. Before I decide what to do, I guess I wanted to find out what the effect would be of rereferring it, because we are not really creating a study committee, we are simply keeping the bill on hold? Is that your understanding?

SENATOR HOLLINGWORTH: That is the intent. Actually, I would not bring the bill out in its current form. When I found out that the Co-op had a problem, my immediate reaction was that this was inappropriate. That they should certainly be exempt from having to get a bond because they are a member-owned utility. They actually built their lines, they gave easements across their own property. They were one of the healthiest utilities in the state years ago and they can be again, if they are not now. So I did not want to do anything that infringed on the members because their stake is the same as ours that live in this state. After all, one-third of the stockholders for Seabrook are out-of-state, Connecticut. It is clearly not my intention that those people who are in-state, who ultimately bear the cost, if there isn't another mechanism in place.

SENATOR GORDON: I think that leads me to the question that I have for you because as I see it, whatever comes out as legislation, as a result of your effort, which I commend, is going to have to be in a substantially different form than as it was proposed in this bill?

SENATOR HOLLINGWORTH: We changed it several times, Senator Gordon, trying to ease problems that we have had and that is why it is a complex issue and it really does need to be considerably different than it is.

SENATOR GORDON: I didn't get my whole question out, Mr. President. The question is while since it is going to have to come out in such a substantially different form, and since we can't act on it again until the next legislative session, would it do any harm to make it inexpedient and to provide you with TAPE INAUDIBLE.

SENATOR HOLLINGWORTH: TAPE INAUDIBLE we would have an ample opportunity at that time to address it again. I am also afraid of the precedent that we are setting. That if we kill this bill, what does it say in the court case? Does it say that all of the rate payers of the state of New Hampshire are going to bear the cost? Does current law prevail? Is that what we are saying? The PUC says that the legislature needs to address this. They are looking to us to give direction. Are we, by our actions, of making this inexpedient to legislate, are we saying to the PUC, no, we are happy to let ratepayers who don't use nuclear power be the bearers of the cost. That means that two hundred million dollars, today's dollars, a billion dollars at the end, will have to be paid by the other rate payers. That is the concern that I have. This bill was very heavily lobbied in the committee. There were five law firms that were there in opposition to this. Clearly big dollars are hinging on this piece of legislation.

SENATOR GORDON: I guess that the question that I have, and I am not sure that you can answer it based upon the response to the prior question, but, is there any rule that would prohibit you, that you are aware of, that would prohibit you from bringing in a new bill next year?

SENATOR HOLLINGWORTH: I would have to ask the Chair whether the rule stands that you cannot bring a piece of legislation back before the body that had been heard in the prior session? I don't know the answer to that, but again, I want to say that what my concern is. It is that we are sending the message to those people who are in the court battle with the state of New Hampshire, that we believe that the cost of decommissioning belongs to the state of New Hampshire or to the ratepayers who do not use the power? You have many utilities that are thinking of coming into the state to generate electricity, and if they are going to have to be asked to bear the cost of that billion dollars at the end of the lifetime or the two hundred and fifty three million dollars at this time, in today's dollars, they may think twice about whether they want to get into the energy market.

SENATOR F. KING: Senator Hollingworth, you paint a rather dire picture of some of the utilities, you keep mentioning the word bankruptcy. I guess that I am curious to know how would these companies that are in dire financial straits, get someone to write a bond for millions and millions of dollars?

SENATOR HOLLINGWORTH: The bill as it is in its form there is different. What we did was... right now Great Bay has to write a bond. They were told that they had to by the NRC as well as this is part of the documents that the NRC is talking about. What we did is, that we said to the PUC, the ones that are in jeopardy, the ones that fall below a bond rating, Standard and Poors, they would need to have some kind of assurance that they would have the funding there to make sure that in the event that there was a shut-down early or that the money wasn't there, that they would have the funds. But because we didn't want to create a burden for them, because they are in jeopardy. A lot of them repeatedly say in the news that they are going to go bankrupt. So rather than do that, I left the decision in the bill to the PUC to make that decision and to make that determination. I think that is where it belongs. Those are the kinds of things that need to be ironed out over the year. That is why I am asking this to go back to committee to allow further input into the process so that the PUC can have direct communication to this legislature. While many of you were not on the committee, many of the committee members did see Doug Patch and Jim Anderson and have the opportunity to read some of the documentation, but a lot of you have not had that opportunity; therefore, I think that it is very important that we not move hastily. I see no reason why a piece of legislation that is so important as this, not be given back to the committee.

SENATOR RUSSMAN: My understanding of your comment is that you didn't care for the bill as it was and that it would be substantially different were you to bring it back?

SENATOR HOLLINGWORTH: Correct.

SENATOR RUSSMAN: And perhaps I could ask the Chair. If that is the case, Mr. President, and Senator Hollingworth brings back a bill that is along the similar lines, but a substantially different bill, the Senate certainly has no rules barring that from coming in again next year, whereas the House may. We do not.

SENATOR HOLLINGWORTH: When I say 'different' I don't know whether the bonding mechanism or the PUC part would be different. What would be different would be the protection for the Co-op to make sure that they were not in it and to guarantee that the state of New

Hampshire, 1) Would not carry the weight or would all the other ratepayers. There are people who are looking at green energy. Energy that is a natural resource. Yes. Many of them are not going to be able to tell their customers that you have to pay for decommissioning. So while the bill will be somewhat different, it will not be totally different. That is what my concern is.

SENATOR RUSSMAN: I would ask for a clarification from the Chair, if I could, relative to that issue?

SENATOR DELAHUNTY (In the Chair): Senator Russman, on the rereferral, this bill is rereferred, it sits as a bill in the committee and can be amended at any time. Under Rule 17(d) of Senate Rules, no bill, the subject matter of which has been indefinitely postponed or made inexpedient to legislate in the Senate, in the first year session, shall be admitted into the second year session, whether as a bill, an amendment, a committee of conference report or any other manner.

SENATOR WHIPPLE: I was on the committee that heard this bill and Senator Hollingworth wasn't. There was a lot of concern about the issues that this bill raised as far as the decommissioning costs of Seabrook and who was going to pay for them and who was going to be responsible for them and how we were going to guarantee that the ratepayers of New Hampshire and that the taxpayers of New Hampshire weren't going to have to step up to the plate and pay these costs. Because we had so many concerns about the question about what we were going to do about PSNH when they were threatening bankruptcy every time you open up the paper, and that we were probably going to have to negotiate, the state would probably have to end up negotiating with them. We didn't want to do anything now that was going to push them over the line and force a possible bankruptcy. So we said, look, we will wait on this and right after that, the issue on the Co-op came in. That the Co-op people were going to have to end up paying this. So we said that we didn't want that. That is not what we are trying to do. We are not trying to get the ratepayers to pay for this. But we want this to be on generation costs. That was the thinking at the time. So we said that what we had to do was... we have so much work to do on it, to change it around although the subject matter is not going to change. It is still going to be addressing a decommissioning cost of Seabrook and how we are going to pay for them, and how we are going to protect the ratepayers and the tax payers of the state. So we said that if we kill it, it is going to be two years before it can come back and we are going to need this legislation before then. So if we can rerefer it and have time to work on it and by then, the picture will be clearer on what is going to happen with the various utilities and the deregulation issue and in opening up the market to competition. We will have more information and we will know more what will happen and we can work on this next year. That is really what we need to do. It would be terrible to do away with this thing for two years and not be able to address it when it is a very important part of the overall opening up the state's competition. Thank you.

Question is on rereferred.

A roll call was requested by Senator Hollingworth.

Seconded by Senator J. King.

The following Senators voted Yes: Gordon, Rubens, McCarley, Whipple, Roberge, Blaisdell, Squires, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Patenaude, D. Wheeler, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

Yeas: 12 - Nays: 11

Senator Pignatelli (Rule #42).

Committee report of rerefer is adopted.

SB 167-FN, relative to the regulation of naturopathic practitioners. Executive Departments and Administration Committee. Majority report; Vote: 5-3, Ought to pass with amendment, Senator Patenaude for the committee. Minority report, Vote: 3-4, Inexpedient to legislate, Senator Podles for the committee.

1997-0773s

05/09

Amendment to SB 167

Amend the bill by replacing all after the enacting clause with the following:

1 Exemptions Modified. Amend RSA 328-E:5, I(e)(3) to read as follows:

(3) Apply for a license in a manner prescribed by the board on or before ~~[March 1, 1995]~~ **January 1, 1998**.

2 New Subparagraphs; Exemptions Added. Amend RSA 328-E:5, I by inserting after subparagraph (f) the following new subparagraphs:

(g) Any individual rendering aid in an emergency, when no fee or other consideration for the service is charged, received, expected, or contemplated.

(h) Any individual administering a domestic or family remedy.

(i) Any person engaged in the sale of vitamins, health foods, dietary supplements, and other products of nature, the sale of which is not otherwise prohibited under state or federal law, as long as such person is not diagnosing any human disease, ailment, injury or other condition.

3 Enforcement and Penalties. Amend RSA 328-E:14, I to read as follows:

I. Whoever, not being licensed as provided in this chapter, shall advertise oneself or in any way hold oneself out as qualified to practice naturopathy, ~~[or shall practice naturopathy,]~~ or whoever does so after receiving notice that one's license has been revoked, and whoever, being licensed as provided in this chapter, shall advertise or call oneself or allow oneself to be advertised or called a physician or a doctor, or use any physician's or doctor's insignia as such, except "Doctor (name of naturopath), naturopath," or (name) "doctor of naturopathy," or (name) "naturopathic doctor," or (name) "doctor of naturopathic medicine," shall be guilty of a misdemeanor and, upon conviction, shall, if licensed, have such license revoked.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill adds the following persons to the list of those who are exempt from certain laws governing licensed doctors of naturopathic medicine:

I. Any individual rendering aid in an emergency, when no fee or other consideration for the service is charged, received, expected, or contemplated.

II. Any individual administering a domestic or family remedy.

III. Any person engaged in the sale of vitamins, health foods, dietary supplements, and other products of nature, the sale of which is not oth-

erwise prohibited under state or federal law, as long as such person is not diagnosing any human disease, ailment, injury or other condition.

The bill extends the period during which a person, who has held himself or herself out as a naturopath or a doctor of naturopathic medicine prior to July 1, 1991, may apply for a license.

The bill also eliminates the law which makes the practice of naturopathy without a license a misdemeanor.

SENATOR PODLES: Senate Bill 167, relative to the regulation of naturopathic practitioners, although the majority of the committee adopted an amendment offered by Senator Patenaude, I had also submitted an amendment which recodified the law governing naturopathic health care. My amendment distinguishes between the practice of naturopathy and the practice of naturopathic medicine. Under my amendment, those who practice naturopathic medicine, shall be regulated and licensed by the Board of Medicine. Those who practice naturopathy shall be regulated by the Department of Health and Human Services, and it is only if they hold themselves out as "registered doctors of naturopathy" or "registered naturopathic doctors" or "registered naturopaths." Those who are licensed would simply refer to themselves as such and those who are registered, would refer to themselves as "registered." The minority of the committee that this bill be inexpedient to legislate.

SENATOR PATENAUDE: Senate Bill 167, relative to the regulation of naturopathic practitioners as amended by the committee. This bill exempts any individual rendering aid in an emergency, when no fee or other consideration to the service is charged, received, expected or contemplated. 2) Any individual administering a domestic or family remedy. 3) Any person engaged in the sale of vitamins, health foods, dietary supplements and other products of nature, the sale of which is not otherwise prohibited under state or federal law, as long as such person is not diagnosing any human disease, ailment, injury or any other condition, from statutes governing licensed doctors of naturopathic medicine. The majority of the ED & A Committee voted ought to pass as amended. Thank you.

Amendment adopted.

Senator Podles offered a floor amendment.

1997-0741s

05/08

Amendment to SB 167

Amend the bill by replacing all after the enacting clause with the following:

1 Naturopathic Health Care; Findings and Purpose. RSA 328-E is repealed and reenacted to read as follows:

CHAPTER 328-E

NATUROPATHIC HEALTH CARE

328-E:1 Findings and Purpose.

I. Significant numbers of New Hampshire residents choose naturopathic care for their health care needs. Naturopathy is a distinct health care modality that is an integral component of the public's health and welfare. Freedom of choice in health care is already utilized by the public to enhance their health and is not in competition with generally accepted medical practices. The freedom of choice must also be preserved among the diverse and emerging practice of naturopathy. The public at large

seeks the options and education provided in naturopathy so as to make available choices among natural alternatives in health care. Naturopaths continue the tradition of cooperation with all branches of medical science, referring individuals to other practitioners and health care providers for diagnosis or treatment when appropriate.

II. The purpose of this chapter is:

(a) To provide the standards for the regulation of naturopathic health care by the registration of naturopathic doctors and therefore provide to the citizens of New Hampshire the availability of natural health care choices.

(b) To secure the practice of naturopathy within the state of New Hampshire as an option of health care to all citizens regardless of economic status or the availability of insurance.

(c) To provide a public disclosure to the citizens of New Hampshire of the credentials of the naturopathic doctors whose training includes a diversity of theory and practice.

(d) To provide for the public safety by assuring the care rendered by naturopathic doctors is appropriate to their education and training.

328-E:2 Definitions. In this chapter:

I. "Counsel and treat individuals through the use of naturally occurring substances and modalities" includes, but is not limited to, the acts of advising, assessing, evaluating, suggesting, or recommending naturally occurring substances, the use of natural physical modalities, and other treatments, commonly provided by naturopaths and not otherwise prohibited by this chapter or by RSA 318.

II. "Doctor of naturopathy" or the recognized academic abbreviation, "N.D." means an individual who is a member of one of the naturopathic organizations identified in paragraph VII and who has successfully completed a program of certification administered by one of the organizations identified in paragraph VII.

III. "Malpractice" means failure on the part of a registered naturopath to exercise the degree of care, diligence, and skill ordinarily exercised by naturopaths, resulting in a complaint from a patient who alleges serious harm or injury.

IV. "Naturopath" means an individual who practices naturopathy. This act does not restrict the use of the term to registered naturopathic doctors or registered doctors of naturopathy and recognizes that the term naturopath is in the public domain.

V. "Naturopathic doctor" has the same meaning as doctor of naturopathy.

VI. "Naturopathic modalities" includes but is not limited to dietary evaluations, nutrition, herbology, acupressure, muscle relaxation and structural normalization, hydrotherapy, oxygen therapy and thermal therapy, homeopathy, iridology, biofeedback, and kinesiology, which all recognize and exclusively utilize non-invasive procedures and natural substances.

VII. "Naturopathic organization" means any of the following organizations, without prejudice against any organization not listed:

(a) American Naturopathic Medical Association.

(b) American Naturopathic Association.

(c) American Association of Naturopathic Physicians.

(d) Council on Naturopathic Registration and Accreditation.

VIII. "Naturopathy" means a distinct system of non-invasive health care and health assessment in which neither surgery nor drugs are used, dependence being placed only on education, counseling, naturopathic

modalities, and natural substances, including without limitation, the use of foods, food extracts, vitamins, minerals enzymes, digestive aids, botanical substances, topical natural substances, homeopathic preparations, air, water, heat, cold, sound, light, the physical modalities of magnetic therapy, naturopathic non-manipulative bodywork, and exercise to help stimulate and maintain the individual's intrinsic self-healing processes.

328-E:3 Registration Required; Registrant Title.

I. No persons shall represent themselves as registered to practice naturopathy in this state without first applying for and receiving a registration certificate from the department of health and human services.

II. Persons registered under this chapter may use any of the following titles: "registered doctor of naturopathy," registered naturopathic doctor," "registered N.D.," the abbreviation "R.N.D.," or "registered naturopath." Such persons shall have the exclusive right to the use of these terms.

III. Persons who represent themselves as registered doctors of naturopathy, registered naturopathic doctors, or registered naturopaths are those who adopt the use of the term "registered" in conjunction with their title, whether in speech, written documentation, conduct, or inference.

328-E:4 Scope of Practice.

I. Persons registered under this chapter shall be authorized to practice naturopathy and counsel and treat individuals through the use of naturally occurring substances and modalities for preventive and therapeutic purposes using the methods, substances, and modalities identified in RSA 328-E:2.

II. Persons registered under this chapter shall not:

(a) Prescribe, dispense, administer, or make any recommendations pertaining to any legend or controlled substances as defined in RSA 318 and 318-B.

(b) Perform surgical procedures.

(c) Practice emergency medicine, except as a good samaritan rendering gratuitous services in the case of emergency and except for the care of minor injuries.

(d) Practice or claim to practice medicine, surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, or physical therapy.

III. The practice of naturopathic medicine, as opposed to the practice of naturopathy as defined in RSA 328-E:2, shall be regulated and licensed by the New Hampshire board of medicine. Any person licensed by the New Hampshire board of medicine to practice naturopathic medicine may use any of the following titles: "licensed doctor of naturopathy," "licensed naturopathic doctor," "licensed naturopath," or "licensed N.D.," the abbreviation "I.N.D.," "doctor of naturopathic medicine," or the abbreviation "N.M.D."

328-E:5 Exemptions.

I. Nothing in this chapter shall be construed to prohibit or to restrict:

(a) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state who are performing services within their authorized scope of practice.

(b) The practice of naturopathy by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed by the laws and regulations of the United States.

(c) The practice by a doctor of naturopathy properly credentialed in another state, territory, or the District of Columbia when incidentally called into this state for consultation with a registered doctor of naturopathy.

(d) The practice of naturopathy by students enrolled in naturopathic institutions. The performance of services shall be pursuant to a course of instruction or assignments and under the supervision of a naturopathic instructor who is registered pursuant to this chapter.

(e) The treatment of the sick or suffering by spiritual means through prayer alone in accordance with the tenets and practices of an established church or religious denomination.

(f) An individual administering a domestic or family remedy.

(g) A person engaged in the sale of vitamins, health food, dietary supplements, herbs or other products of nature, the sale of which is not otherwise prohibited under any state or federal law. However this subparagraph does not:

(1) Allow a person to diagnose any human disease, deformity, or condition; or

(2) Prohibit providing truthful, non-misleading information, counseling or assessment regarding any of the products referred to in this subparagraph.

(h) A person acting in good faith for religious reasons as a matter of conscience or based upon a personal belief when obtaining or providing information regarding health care and the use of any product under subparagraph (g).

(i) A naturopathic assistant while working under the direction and immediate supervision of a registered naturopathic doctor to the extent that the assistant is engaged in tasks appropriately delegated by the supervisor in accordance and within the standards and ethics of the practice of naturopathy.

II. The practice of midwifery is not regulated by this chapter.

III. The practice of acupuncture which involves the invasive procedure of puncturing the surface of the skin and related tissues on any part of the body is not regulated by this chapter.

328-E:6 Qualification for Registration.

I. A registration certificate to practice naturopathy within the state of New Hampshire shall be issued by the department of health and human services within 30 days of submittal of certification from one of the nationally recognized naturopathic organizations indicating that the applicant is a qualified doctor of naturopathy.

II. To be eligible to register to practice naturopathy, the applicant shall:

(a) Be a member in good standing of a naturopathic organization.

(b) Have been awarded a doctor of naturopathy degree or its equivalent, and have successfully completed a program of certification approved by one of the naturopathic organizations.

(c) Have had no license, certification, or registration to practice naturopathy refused, revoked, or suspended by any other state or country for reasons which relate to the applicant's ability to skillfully and safely practice naturopathy.

(d) File an application.

(e) Pay appropriate registration fees.

328-E:7 Renewal of Registration. Persons registered under this chapter shall renew their registration biennially by paying a renewal fee and completing 20 hours of naturopathic continuing education approved by at least one of the naturopathic organizations.

328-E:8 Enforcement and Penalties.

I. Whoever, not being registered as provided in this chapter, shall advertise or in any way hold oneself out as a registered naturopath,

registered doctor of naturopathy, or registered naturopathic doctor, or who does so after receiving notice that one's registration has been suspended or revoked, and whoever, being registered as provided in this chapter, shall advertise or call oneself or allow oneself to be advertised or called a physician, or use any physician's insignia as such, except "Doctor (name of naturopath)," or (name) "registered Doctor of Naturopathy", or (name) "registered naturopathic doctor", shall be guilty of a class B misdemeanor and, upon conviction, shall, if registered, have such registration suspended indefinitely if so ordered by the court of conviction.

II. Persons registered under this chapter who engage in naturopathy without compliance with this chapter may be subject to revocation or suspension of registration until such time as the person demonstrates that the offense has been remedied.

III.(a) Persons registered under this chapter who engage in naturopathy without compliance with this chapter may be subject to revocation or suspension of registration until such time as the person demonstrates that the offense has been remedied. The department of health and human services shall not take any disciplinary action under this chapter without:

(1) Giving the registrant at least 15 days prior written notice of the alleged violation; and

(2) Conducting a hearing at which the registrant shall be entitled to representation by legal counsel and be given the opportunity to cross-examine all persons presenting evidence against the registrant.

(b) All testimony at the hearing shall be under oath and the proceedings recorded and transcribed by a court reporter.

(c) At the option of the registrant, the hearing shall be conducted in a public forum.

IV. Unregistered persons who practice naturopathy are not subject to the provisions of this chapter, except as provided in RSA 328-E:8.

V. The penalty for malpractice may include the revocation of the certificate of registration by the state as well as relief provided the patient or client by the tort laws of the state.

328-E:9 Administration. The department of health and human services shall administer the provisions of this chapter.

328-E:10 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

2 Administrative Rules Repealed. Administrative rules adopted by the naturopathic board of examiners prior to the effective date of this act are repealed.

3 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill recodifies the law governing naturopathic health care. The bill distinguishes between the practice of naturopathy and the practice of naturopathic medicine. Those who practice naturopathic medicine shall be regulated and licensed by the board of medicine. Those who practice naturopathy shall be regulated by the department of health and human services only if they hold themselves out as registered doctors of naturopathy, registered naturopathic doctors, or registered naturopaths.

This bill makes certain persons guilty of a class B misdemeanor if they violate certain laws governing naturopathic health care.

SENATOR PODLES: Senate Bill 167, relative to the regulation of naturopathic practitioners. Though the majority of the committee adopted an amendment offered by Senator Patenaude, I had also submitted an amendment that recodified the law governing naturopathic health care. My amendment distinguished between the practice of naturopathy and the practice of naturopathic medicine. Under my amendment, those who practice naturopathic medicine shall be regulated and licensed by the Board of Medicine. That group right now, consists of two people. That is all that it consists of is two people. They will be under the Board of Medicine. Those who practice naturopathy shall be regulated by the Department of Health and Human Services only if they hold themselves out as registered doctors of naturopathy, registered naturopathic doctors, or registered naturopaths. That group, I have been told that it has been estimated between 60 and 80 people and those people would register and regulated by the Department of Health and Human Services. Those who are licensed would simply refer to themselves as such, and those who are registered would refer to themselves as registered. I feel that my amendment will remedy HB 451-FN passed in 1994, which authorized unqualified, untrained practitioners to do procedures far beyond their scope of training. They don't meet the same criteria, the same requirements, as physicians. So SB 167 excludes them from diagnosing diseases, X-rays, all tools that real doctors use. For example, blood work. They have no prescriptive rights and they are not primary care providers. I would like you to turn to the amendment, and I would like to sort of walk you through it. First of all, on the first page, there is findings and purpose. On the second page, we have a lot of definitions and I was very careful that when we are talking about something, that we have definitions. We do have definitions and they are all here. The naturopathic doctor, and those are the ones that would register and be regulated by the Health and Human Services Department, they sort of reject the use of drugs and medicine. What they do is they deal with herbs and they deal with foods, they prescribe health care in some ways, but they are not drug dependent. They do not work with drugs. They can work with foods and food extracts, vitamins, minerals and enzymes and that is on page two, line twenty-three. It is under the definition of naturopathy. Those are the ones, as I said, that will be under the Health and Human Services Department because they will be the ones that will be registered. We also refer to them as non medical. Now the medical, please turn to page three, line 17. That section is devoted to the medical medicine. It reads, "The practice of naturopathic medicine as opposed to the practice of naturopathy, is regulated and licensed by the New Hampshire Board of Medicine." As I said before, right now, there are probably two people who would go under this board. The naturopathy, the doctors of naturopathy, they, I have been told, are estimated between 60 and 80 people. They do have exemptions and I will not read the exemptions because they are right here. There are lots of exemptions. Their qualifications for registrations, the renewal. It basically is taken from the current law. What I wanted was to do something on long term care. I did not want to do something that would be just a band aid approach, because these people will be coming back time after time. The bill is a clean version, and it registers the non-medical, and it also licenses the medical through the Board of Medicine. So some of them are registered and some of them are licensed. I think that I have covered everything. I will answer questions if anyone has any. I have always understood that when you register a group, they are officially recorded or they are enrolled, but

when you license someone, you are authorized, in fact, that licensee is authorized by law in that state, to do something and the state stands behind you. So actually, we have heard in testimony, that a lot of these naturopathic doctors go beyond their scope, practice beyond their scope. They are taking x-rays and you know how dangerous it is if you don't do an x-ray correctly or if you don't have the right x-ray machine. What we did was to make sure that... and the state could be liable. You all have papers in front of you showing you that there are some lawsuits because they are not doing it right. I would encourage you to really pass this bill because if we don't do it, it is going to be a burning issue. They are going to come to you time after time. The osteopaths are also under the Board of Medicine. It is a board that is closely managed. With just two people, I can't see having a board by themselves. Boards usually create a lot of problems for the state. I would like to tell you that both the House and the Senate each has a bill. The House has the same parts in the first part where they register these 60 to 80 people. They registered them with the Health and Human Services, just as I have done. The second part, they were a little confused, so they put their bill into rerefer to study. They are waiting for something from us. I can tell you that there is no grandfathering necessary for anyone. This is fair. It keeps standards in place. I think this is a very good, clean bill. It is understanding and it shouldn't create any problems.

SENATOR SQUIRES: I rise in support of this amendment. This is the first time that I have seen it. I think that a registration mechanism is superior when there is division in a field of practice. There is a lot of division in this field of practice. The reasons why mental health providers are registered rather than licensing. I support this. I think that Senator Podles has done a great job. I think that the Senate should pass this. Thank you.

SENATOR RUBENS: I rise in support of Senator Podles' amendment also. Thank you.

SENATOR PATENAUDE: I rise in opposition to Senator Podles' floor amendment. I would like to ask the members of the Senate to support the committee's amendment. The court cases that Senator Podles has mentioned, have been either dismissed or denied. Many of these cases have been brought forth because the grandfathering clause had expired before the committee had been named by Governor Merrill or that people were trying to apply for licenses and the rules weren't completed yet. I don't think those are an issue. In fact, the committee's amendment does address almost all of the concerns that were brought up during the public hearing process. Thank you.

SENATOR D. WHEELER: Senator Patenaude, does your version of this bill expand the number of schools that the naturopaths can attend and still be licensed?

SENATOR PATENAUDE: Yes. I believe that it does.

SENATOR D. WHEELER: The amendment that I saw gave you more time, but it did not extend the number of schools that you could attend in order to qualify to be a licensed naturopath because of the specific dates used in the bill. Other schools didn't come on line until later in history and so they would still be excluded and this would... your amendment would still have the naturopaths as rather an exclusive club because it is not expanding the number of schools that could qualify naturopaths to be licensed.

SENATOR PATENAUE: Senator Wheeler, the grandfathering clause has been lengthened and people who have received education prior to these programs being credited and so on, will be given the opportunity to apply for licensure. I would like to say that this was passed just in June of 1994, this board. I don't think that it is proper that we haven't allowed them to function. Many of the concerns that you are bringing up, they are just concerns, they are not facts.

SENATOR D. WHEELER: Senator Patenaude, could you tell us the dates in which the schools had to be in place in order to qualify for going there, to be a licensed naturopath? Have there been any changes in your amendment that would make your amendment different than Senator Podles'?

SENATOR PATENAUE: I am not sure how to answer, to be quite honest. I apologize. Senator Podles' amendment is not going to be of good service to the citizens of New Hampshire. Licensed naturopathic doctors are much different than many of the people that she would like to bring in under certification. The fact that the Board of Naturopathic Doctors should be regulating themselves, they don't belong underneath the Board of Medicine. I can't answer your question, but we can go onto the next step.

Question is on the floor amendment.

A roll call was requested by Senator Podles.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Rubens, D. Wheeler, Squires, Francoeur, Podles, Barnes, Danaïs.

The following Senators voted No: Gordon, Johnson, Fraser, McCarley, Patenaude, Whipple, Roberge, Blaisdell, Pignatelli, Larsen, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

Yeas: 8 - Nays: 15

Floor amendment failed.

Question is on ordering to third reading.

Adopted.

Ordered to third reading.

SB 191, relative to mental health providers. Executive Departments and Administration Committee. Vote: 4-3. Rereferred to committee, Senator Patenaude for the committee.

SENATOR PATENAUE: Although the committee and the representatives from the mental health providers community worked to reach common ground on SB 191, members of the committee were concerned that the bill was first heard on February 18 and it would be difficult to examine this particular bill and forge the amendment so that everyone would be comfortable with them before today. As a result, the majority of the committee recommends that this bill be rereferred.

Committee report of rereferred is adopted.

HB 425, relative to the regulation of pharmacists. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: House Bill 425, relative to the regulation of pharmacists. Current pharmacist licensure law requires that applicants

must have graduated from an accredited American College of Pharmacy. Relying on the standards of the Foreign Pharmacy Graduate Examination Committee Certification program, HB 425 allows foreign candidates to obtain pharmacist licensure if the candidate documents his/her educational background, successfully completes the Foreign Pharmacy Graduate Equivalency Examination, and successfully completes the Test of English as a Foreign Language or TOEFL. Currently, forty-one states use the Foreign Pharmacy Graduate Examination Committee Certification program as part of the licensing process. This bill was requested by the New Hampshire State Board of Pharmacy to oblige foreign, specifically Canadian, pharmacy license applicants. No one opposed the bill during the hearing. The committee recommends that this bill ought to pass.

SENATOR RUBENS: Senator Francoeur, did you receive any phone calls from persons who would be subjected to these tests, who would find themselves insulted by being required to take such tests?

SENATOR FRANCOEUR: No, Senator Rubens, I did not receive any phone calls.

SENATOR RUBENS: Thank you very much.

Adopted.

Ordered to third reading.

SB 53-FN, relative to payment by the retirement system of certain medical benefits for group II members and for certain permanent firemen on disability retirement. Finance Committee. Vote: 6-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: Senate Bill 53-FN, relative to payment by the retirement system of certain medical benefits for group II members and for certain permanent firemen on disability retirement, was referred to Finance from the Insurance Committee. Senate Bill 53 extends health care benefits for permanent policemen at the local and county level, for those retired members as of June 30, 1990. In essence, this provision picks up two more years of policemen. This bill also adds permanent firemen at the local and county level, for the health care benefit for those members retiring as of June 30, 1990. Currently, firemen do not receive this benefit. The cost of the retirement special account, in FY 1998 will be \$6,700,000 for policemen and \$3,840,000 for firemen. The actuary states that these funds are available in the special account. The committee on Finance recommends that this bill be ought to pass.

Adopted.

Ordered to third reading.

SB 177-FN, relative to the liability of prospective adoptive parents for court ordered services. Finance Committee. Vote: 5-2. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 177 relative to the liability of prospective adoptive parents for court ordered services, was referred to Finance from the Judiciary Committee, which unanimously supported this bill as a matter of policy. This bill provides an exception for prospective adoptive parents of a child who is already in the custody of the state, from reimbursing the state for court ordered services provided for the adopted child. This bill is meant to be an incentive to those considering adoption of children in the custody of the state. The children involved

are usually older children who have come into the state custody because of tragic family backgrounds. Because of the expense of court ordered services, those considering adoption, currently, are discouraged from adopting because of the liability involved. The Department of Health and Human Services stated that about 60 children will fall under this category each year, but the department is unable to determine how many who would be subject to juvenile court proceedings would be eligible for a waiver. The committee on Finance recommends this bill as ought to pass. Thank you.

Adopted.

Ordered to third reading.

SB 203-FN-L, deleting the state prison and adding county correctional facilities to the provisions relating to incarcerated educationally disabled children. Finance Committee. Vote: 6-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 203-FN-L, adding county correctional facilities to the provisions relating to incarcerated educationally disabled children. Senate Bill 203 was referred to Finance from the Education Committee where it met with no opposition. Senate Bill 203 addresses a question that received much attention last summer. That question is, who is responsible for persons incarcerated in the county houses of correction and for their special education services? The Attorney General had previously issued an opinion, that the community in which the jail is located, is responsible for paying for those costs. This bill is a result of a study committee that met last summer. It clarifies that the cost for special education for those incarcerated in the county facilities shall be borne by the school district of the inmate's residence. The cost for this legislation is indeterminable. The committee of Finance recommends SB 203 as ought to pass.

Adopted.

Ordered to third reading.

SB 205-FN-L, establishing a special school district to provide special education for eligible inmates in the state prison system. Finance Committee. Vote: 6-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: Senate Bill 205-FN-L, establishing a special school district to provide special education for eligible inmates in the state prison system. This effort is a result of negotiations with the Department of Education, the Attorney General's Office, and the Department of Corrections. This special district will make possible for the state to secure federal funds for this program. The fiscal impact is indeterminable as the severity of the disability of the inmate would determine the amount of services required. Currently the Department of Corrections has approximately one hundred inmates under twenty-one who potentially qualify for special education services. The committee on Finance recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 211-FN, making technical changes under the motor vehicle financial responsibility laws, insurance fraud laws, and laws regulating managing general agents, reinsurance intermediaries, and third party administrators. Finance Committee. Vote: 6-0. Ought to pass with amendment, Senator Fraser for the committee.

0923s
08/01

Amendment to SB 211-FN

Amend RSA 417:30, I as inserted by section 19 of the bill by replacing it with the following:

I. Except for insurance companies writing only credit, home warranty, travel, or title insurance, every insurance company licensed to write direct business in this state shall have antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts, including:

(a) Fraud investigations, who may be insurer employees or independent contractors; or

An antifraud plan submitted to the commissioner.

SENATOR FRASER: Senate Bill 211 was referred to Finance from the Insurance Committee. As reported out of committee, this bill changes the financial responsibility law requiring auto insurers to pay medical claims even if a person has their own medical coverage. The bill also allows the department to implement rules regarding licensure of managing general agents. These agents manage significant amounts for insurers and the regulation by the department is necessary. The bill also returns to statute, language regarding the assigned... in the New Hampshire Auto Insurance Plan that was erroneously deleted previously. Further, the bill extends the provision when reporting insurance fraud to public officials and insurance companies. Finally, this bill requires insurers to provide the department with anti-fraud plans. The fiscal impact of SB 211 is minor, Mr. President, in that it would cost less than ten thousand dollars per year. Senate Bill 211 as amended would exempt those insurance companies not doing direct business with the public, such as reinsurers, from the provisions of the anti-fraud initiatives in section IX of the bill. Mr. President, the committee was unanimous in recommending that this bill be adopted.

Amendment adopted.

Ordered to third reading.

HB 325, eliminating the correctional industries advisory board. Finance Committee. Vote: 6-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill referred to Finance from the Economic Development Committee. What it does is, that it repeals the law establishing the correctional industries advisory board. The Finance Committee found that it had no fiscal impact. We recommend that this bill be ought to pass.

Adopted.

Ordered to third reading.

SB 122, relative to the regulation of managed care organizations. Insurance Committee. Vote: 6-1. Ought to pass with amendment, Senator Hollingworth for the committee.

1997-0953s
08/01

Amendment to SB 122

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to examine the effects of the managed care industry on those belonging to the disabled and the mental health communities.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court recognizes that there are many facets of the managed care system that are worthy of examination. However, to provide a more thorough and expeditious review, the general court hereby moves to examine 2 of the most vulnerable portions of the general population: the disabled and mental health communities. Because members of the mental health and disabled communities often do not have employers to serve as intermediaries, the general court acknowledges the need for legislative intervention in the form of a commission to examine all types of insurance coverage including individual programs, government programs, and employee-based programs for those individuals belonging to the mental health and disabled communities.

2 Commission Established. There is established a commission to examine the effects of the managed care industry on those belonging to the disabled and the mental health communities.

3 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the senate, appointed by the senate president.

(b) Three members of the house, appointed by the speaker of the house.

(c) The governor of the state of New Hampshire, or designee.

(d) Three members of the general public with an interest in the needs of the mental health community and disabled community with regard to managed care, as appointed by the governor.

(e) The commissioner of the insurance department, or designee.

(f) The commissioner of the department of health and human services, or designee.

(g) One representative of the Developmental Disabilities Council, appointed by the council.

(h) One representative from Granite State Independent Living Foundation, Inc., appointed by the corporation.

(i) One representative from the Alliance for the Mentally Ill of New Hampshire, appointed by the organization.

(j) One representative from the governor's commission on disability, appointed by the commission.

(k) One representative from New Hampshire Legal Assistance, appointed by the organization.

(l) One representative from the Business and Industry Association, appointed by the association.

(m) One representative from the Advisory Council on Children with Chronic Health Conditions and their families, appointed by the council.

(n) One representative from New Hampshire Citizen Action, Inc., appointed by the corporation.

(o) One representative from the American Association of Retired Persons, appointed by the association.

(p) One representative from the New Hampshire Nurses Association, appointed by the association.

(q) One representative from the New Hampshire Hospital Association, appointed by the association.

(r) One representative from the New Hampshire Medical Society, appointed by the society.

(s) One representative from the New Hampshire Psychological Association, appointed by the association.

(t) One representative from the New Hampshire Health Maintenance Organization Association, appointed by the association.

(u) One representative of the New Hampshire Visiting Nurses Association, appointed by the association.

(v) One representative of the New Hampshire Psychiatric Association, appointed by the association.

(w) One representative from each of the following managed care companies: Matthew Thornton Health Plan, Healthsource New Hampshire, New Hampshire Blue Cross/Blue Shield, Tufts Affiliated Health Plan, and Oxford Health Plan. Each plan's representative shall be appointed by the plan.

(x) One representative to be appointed by the Lahey Hitchcock Clinic.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

4 Duties. The commission shall examine the effects of the managed care industry on those belonging to the disabled and the mental health communities. The commission shall examine all types of insurance coverage including individual programs, government programs, and employee-based programs for those individuals belonging to the mental health and disabled communities. The commission's examination shall include but not be limited to the following:

I. A review of access to primary and specialty care for the disabled or those with mental illness.

II. A review of the information that is provided by health carriers, providers, and the managed care industry to the disabled or those with mental illness.

III. A review of the referral process and the limits on visitations to specialty care providers for the disabled and those with mental illness.

IV. As necessary, the legislative members of the commission shall recommend passage of new legislation to address the specific and unique needs for the disabled or those with mental illness.

5 Chairperson. The legislative members of the commission shall elect a chairperson from among the legislative members. The first-named senate member shall call the first meeting. The first meeting shall be held within 45 days after the effective date of this section.

6 Report. The commission shall submit an annual report of its activities to the governor and council, the senate president, the speaker of the house, the senate clerk, the house clerk, and the state library on or before November 1 of 1998, 1999, and 2000. The commission shall terminate upon the submission of its final report on or before November 1, 2000. The reports may include any recommendations for legislation.

7 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a commission to examine the effects of the managed care industry on those belonging to the disabled and the mental health communities.

SENATOR HOLLINGWORTH: Senate Bill 122 as amended, is a result of the overwhelming testimony before the Senate Insurance Committee. The committee heard public testimony on three managed care health bills. We found that the overwhelming testimony that was brought before us was on people with mental disabilities and the disabled. There-

fore, this bill sets up a commission to look at those areas of concern for those two communities. The commission will look specifically at access to the primary and specialty care. The commission will review what information is provided by health care providers for people who are disabled or have mental illness. And furthermore, the commission will review the referral process and the limitations for the number of visits to specialty care providers. Hopefully, this commission will be able to recommend legislation and we can consider improvements to the managed care market for people with disabilities and mental illness. The committee recommends ought to pass with amendment. I would just like to add that while this bill is amended, I, still personally believe, that there is a problem for protection for people who are not necessarily mentally ill or in the disabled community. But at this time, the facts just do not substantiate that, and therefore, while we... our constituents come to us, the Insurance Department has yet... not seemed to hear that same voice that we as senators have heard. At this time, we are moving forward with SB 122. I do hope that this Senate will keep a record of their constituents who are coming to them with their concerns, and that, hopefully, as the year progresses, that we may be able to address other concerns that are out there.

SENATOR K. WHEELER: I wish to support the amendment to which Senator Hollingworth has just spoken so eloquently. Also, I would like to add my concern that we are not going farther than this amendment, this year, that we did defeat, without debate, the managed care consumer's bill of rights. Our consumers are still concerned. Our constituents are these consumers of managed care. We know that there are a lot of problems out there. I regret that we were unable to address it this session, but I think that this is a good step. Thank you.

Recess.

Senator Barnes in the Chair.

Amendment adopted.

Ordered to third reading.

SB 178-FN, regulating managed care systems of health care delivery. Insurance Committee. Vote: 8-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-0621s

08/01

Amendment to SB 178-FN

Amend RSA 420-J:5, V(b)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. The decision shall include the titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA 420-J:5, VIII.

Amend RSA 420-J:5 as inserted by section 1 of the bill by inserting after paragraph VII the following:

VIII. An external process at the department shall be available to ensure that the health carrier has provided to the covered person grievance procedures consistent with this section and any additional procedures of the health carrier described pursuant to RSA 420-J:5, II.

IX. The insurance commissioner shall issue a report to the governor and the legislature on or before November 1, of each year, relative to external appeals under paragraph VIII. The report shall provide detailed information regarding the number and status of grievance appeals filed with the department.

Amend RSA 420-J:7 as inserted by section 1 of the bill by replacing it with the following:

420-J:7 Network Adequacy.

I. A health carrier shall maintain a network that is sufficient in numbers, types, and geographic location of providers to ensure that all services to covered persons will be accessible without unreasonable delay.

II. The commissioner shall adopt rules under RSA 541-A for a health carrier's network adequacy. Such rules shall establish, but not be limited to:

(a) Waiting times for appointments for non-emergency care.

(b) Choice of and access to providers for specialty care, specifically addressing the needs of the chronically ill, mentally ill, developmentally disabled or those with a life threatening illness.

(c) Standards for geographic accessibility.

(d) Hours of operation for the carrier, including any entities performing prior approval or pre-authorization functions.

III. The health carrier shall keep, at its place of business, a detailed description of the health carrier's compliance with rules adopted pursuant to RSA 420-J:7, II as well as its procedures for monitoring network adequacy.

IV. Annually, the health carrier shall submit a report to the commissioner demonstrating compliance with the rules for network adequacy.

Amend RSA 420-J:9 as inserted by section 1 of the bill by replacing it with the following:

420-J:9 Quality Assessment, Quality Improvement, and Reporting.

I. A health carrier shall:

(a) Establish and maintain a written quality assessment program designed to collect and evaluate information regarding the quality of the health care processes used by the health carrier and the health outcomes of its covered persons.

(b) A health carrier shall establish and maintain a written quality improvement program structured to identify opportunities to improve care, practices that result in improved health care outcomes, problematic utilization patterns, and those providers who may be responsible for either exemplary or problematic patterns of utilization.

II. The quality improvement program shall at a minimum include: a statement of the objectives of the program; a description of how the health carrier will conduct its quality improvement program; the lines of authority and accountability including data collection responsibilities; evaluation tools; performance improvement activities; and an annual effectiveness review.

III. The chief medical officer or clinical director of the health carrier shall have primary responsibility for the quality assessment and quality improvement activities carried out by, or on behalf of, the health carrier and for ensuring that all requirements of this chapter relative to quality assessment and quality improvement are met.

IV. A health carrier shall:

(a) Assure that participating providers have an opportunity to participate in developing, implementing, and evaluating the quality assessment and quality improvement programs.

(b) Maintain at its principal office a copy of the quality assessment program and the quality improvement program which shall be available for inspection by the commissioner or designee at any time during the health carrier's regular business hours.

(c) Certify to the commissioner on or before March 1 of each year that its quality assessment program and its quality improvement program meet the requirements of this chapter and any applicable rules.

(d) Notify the commissioner on or before March 1 of each year of its accreditation by any external accrediting agencies and shall provide a contact person and a phone number for consumer phone calls.

AMENDED ANALYSIS

This bill requires health carriers to:

1. Provide certain credentialing information about its health care professionals.

2. Establish written procedures for receiving and resolving grievances.

3. Establish written utilization review processes if they do not contract with a utilization review entity.

4. Provide an adequate network of providers.

Establish and maintain a written quality assessment and quality improvement program.

SENATOR FRASER: Mr. President, before I report on the content of SB 178, I would be remiss if I didn't thank the members of the Insurance Committee, especially the chairman, Senator Danaïs, for their patience. If you recall, it seems like ages ago, but it was probably two or three weeks ago, that I asked that SB 178 be recommitted because some folks were articulating some concerns with the bill as we had adopted it. Since that time, we have listened to a lot of people. We have taken a lot of additional comments. Would you believe that the bill on the floor today is the very same bill that came out of the Insurance Committee two or three weeks ago as amended? Having said all of that, I would like to read the content of the bill. This bill, by the way, sponsored by Senator Jim Squires, establishes a uniform set of rules under which all health insurers offering managed care health insurance must operate. Currently, there are no health care delivery quality standards for managed care in New Hampshire law. This bill would establish a comprehensive program for the oversight and regulation of the managed care functions of health insurers. Senate Bill 178 establishes definitions and terms for managed care insurers. It also establishes, a credential review procedure that all companies must follow. Further, it provides detailed grievance procedures for consumers and all supervisor regulatory framework for additional rules for utilization management, network adequacy and the quality assessment programs. The bill also levels the playing field among different types of insurers offering managed care insurance and provides a uniform frame of reference for consumers interfacing with their managed care companies. Finally, the bill strengthens various reporting requirements, including with respect to utilization management, thereby affording the insurance department greater access to detailed information about the core managed care functions of other HMO's and other health insurers. The amendment requires the department to create an external review process to insure that managed care companies follow

established grievance procedures. The department must also adopt network adequacy rules, including waiting times for non emergency appointments, and provider choice for special needs population, and geographic accessibility standards. Additionally, the amendment requires managed care companies to inform the insurance department of any external accreditation received, such as national committee for quality insurance. The committee recommends, unanimously, ought to pass as amended. Thank you, Mr. President.

SENATOR LARSEN: Senator Fraser, it is my understanding, in the bill, I guess, I don't see it in the amendment, that the review procedure only addresses a review of procedures followed by the grievances heard within the HMO, within the health maintenance organization?

SENATOR FRASER: That is absolutely correct, senator. There is no external review process in the bill.

SENATOR LARSEN: So a consumer who feels that their medical concerns have not been addressed, can only now go to the HMO that already has denied them that, yet they can't go to the insurance commissioner's office with their grievance, yet their medical issues have not been addressed under this bill?

SENATOR FRASER: You might be correct. But the way that the language reads in the amendment, I need to get it out, it has been so long since we dealt with this in committee.

SENATOR LARSEN: I was looking at the original bill. I don't know if it is the amended version or not.

Recess.

Out of recess.

SENATOR LARSEN: Senator Squires, I would like to ask you that same question.

SENATOR SQUIRES: You are correct. The issue of the appeal process for experimental procedures and medical necessity is unresolved. It is part of the reason, part of the problem that is dealt with in our commission. An enormous number of those come in the area of disability and mental health. It is clearly the subject of federal legislation and it is a daunting problem for us. There is not a simple answer. It has underwriting issues, it has legal issues. My opinion, at the moment, is that we can't solve that. I don't deny that it exists. All of the managed care companies indicated in testimony that they support it. It is really a question of how to do it. But you are right. This bill does not fix that problem.

SENATOR LARSEN: So you agree that at some point, we may have further problems to address in terms of consumers' need to have their medical issues reviewed at another level?

SENATOR SQUIRES: In some manner, absolutely.

SENATOR LARSEN: Thank you.

Amendment adopted.

Ordered to third reading.

SB 206-FN-A, relative to seminars conducted by the superior court for persons seeking custody or visitation of minor children and relative to fees charged for such seminars. Judiciary Committee. Majority report; Vote: 6-2, Ought to pass with amendment, Senator Hollingworth for the committee. Minority report; Vote: 2-6, Inexpedient to legislate, Senator D. Wheeler for the committee.

1997-0738s
09/02

Amendment to SB 206-FN-A

Amend the bill by replacing section 7 with the following:
7 Fees. Amend RSA 458-D:7 to read as follows:

458-D:7 Costs.

I. Persons attending the seminar shall pay a seminar fee *of \$95* to the presenter. [~~Fees charged by the presenter shall be fair and reasonable as directed by the chief justice of the superior court.~~] *Fees may be adjusted annually by the chief justice of the superior court to reflect changes in the consumer price index.*

II. Presenters shall accept recipients of need-based assistance programs at a reduced *fee of \$25 [or] and shall accept indigent persons* at no cost and, upon request of the court, shall produce evidence of having done so.

III. On the commencement of any custody or support proceeding for which a fee is required, including libels for divorce with minor children, the court shall charge and collect an additional fee of \$2 from the petitioner. These fees shall be in addition to any other fee required by law. These fees shall be deposited into the [~~general~~] fund *established in RSA 458-D:11.*

Amend the bill by replacing all after section 9 with the following:

10 Report. Amend RSA 458-D:10 to read as follows:

458-D:10 Report. The chief justice shall submit [~~a report on or before January 15, 1995~~] *information as part of the annual report of the judiciary*, detailing [~~his~~] findings and any recommendations for changing or repealing this chapter, to the speaker of the house, the senate president, and the governor.

11 New Section; Fees to Fund Seminars. Amend RSA 458-D by inserting after section 10 the following new section:

458-D:11 Fees for Funding. The chief justice of the superior court shall, with the approval of the chief justice of the supreme court, determine annually, on or before January 1, a percentage portion of fees collected under RSA 458-D:7, which shall be credited to a court fund, and used solely to fund the court costs of implementing this chapter. This fund shall be continually appropriated to the judicial branch for the purpose of implementation of this chapter.

12 Personnel Authorized. The supreme court is authorized to hire full-time and part-time employees necessary to implement this act on a statewide basis.

13 Repeal. RSA 458-D, relative to seminars for persons involved with child custody, visitation, and support issues, is repealed.

14 Effective Date.

I. Section 13 of this act shall take effect July 1, 1999.

II. The remainder of this act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill expands a pilot program now in operation in the superior courts of Strafford, Carroll, Grafton, and Rockingham counties which requires attendance of a seminar for parents involved in child custody and support issues. This bill would require any person statewide seeking custody or visitation of minor children to attend a seminar offered by the superior court.

The bill imposes fees for participants in the seminar and allows the chief justice of the superior court to set locations and schedules of the

seminar. A portion of each fee for the seminar shall be placed in a court fund, which will be used solely to fund court costs associated with implementing this program statewide.

The bill repeals the seminar program on July 1, 1999.

SENATOR D. WHEELER: In my opinion, SB 206 has serious constitutional problems. This bill would force parents into a government reeducation class against their will in any divorce or custody case. This bill could potentially affect up to 50 percent of our constituents when most of the divorces happen when children are involved. Bear in mind that these people will be forced into parenting classes where no child abuse has occurred, where no child neglect has occurred. If this body assumes that they have the constitutional authority to do this, then why not order all parents to take parenting classes at birth? That will be the next step. The cost is to borne by the participants in that class. I calculate that cost to be close to five hundred dollars a couple. The bill requires the ninety-five dollars charge per person after tax money. Probably these people would have to take a day off from work or at least a half of day off from work to get to the seminar and to attend the seminar. They would have some loss of wages and approximately five hundred dollars to take this course. I don't believe that this is right. It affects thousands of parents in this state. It assumes that all parents who are divorcing are bad parents and need this class. I think that is wrong for the citizens of New Hampshire.

SENATOR HOLLINGWORTH: The majority of the committee has voted that this bill be ought to pass. Clearly it is because we care about the children in the state of New Hampshire. Ninety-six percent of the people who took part in this course, in the four counties that it was held, voted in support of having this continued. In fact, 78 percent of the people who participated said that they would like to have it mandatory for everyone in the state. They recognized that because while they may be good parents, sometimes because of the heat of the divorce, they sometimes lose perspective of what they are supposed to do as parents. So after taking the course, they were overwhelming in support of having this mandated for all parents so that we can try to make some sense of that very difficult time in people's lives of divorce. There are several states that have passed this legislation. We were on the cutting edge in New Hampshire when we started it in the four counties that we did. Yes, I recognize that it is a cost, but what is the life of a young child to make him feel secure in his family and to prevent him from probably feeling the frustrations that we so often find our young people faced with where they act out and commit crimes and misbehave in school and everything else because they are in an environment that is in trauma. So I would certainly say, yes, that while it may cost the families money to do so, that it is well worth that expense in the longrun. It would be great if there were some other mechanism, but clearly, we felt that the state could not bear the cost and it was more appropriate that each individual bear the cost at that time, just as we do in the domestic violence or the marriage license fee. It clearly isn't something that we intend... that people are going to be abusive to their spouses, but that is what happens, so when the cost is also borne by the people who are in the divorce situation, we think that is appropriate, and those who couldn't afford it, there is a fund set up whereby those people who can pay, pay a little bit more to pay for those who cannot. So, yes, the committee supported this 6 to 2 as ought to pass.

SENATOR D. WHEELER: Senator Hollingworth, what constitutional authority do you believe that we can pass this bill?

SENATOR HOLLINGWORTH: Well, because Judge Nadeau... well judges have been doing it. That is why he is here before the legislature to ask us to set it up. We have funded other mechanisms such as this and once the legislature states, I think we have a constitutional right to do so.

SENATOR D. WHEELER: I heard about Judge Nadeau, but I want to hear about what part of the constitution do you think allows us to do this? To force parenting classes on parents who aren't guilty of anything?

SENATOR HOLLINGWORTH: Senator Wheeler, I think that many of the things that we do requiring parents to behave in certain ways to protect children are under the constitution of the right to protect the citizens of our state, whether they are children or whether they are adults. So I guess that it is under the constitution that allows all of the laws that we pass.

SENATOR COHEN: Senator Hollingworth, if there were a constitutional question, don't you think that would have come up when in the past, we have set up a pilot program, which has been in effect for a number of years?

SENATOR HOLLINGWORTH: I would think so.

SENATOR COHEN: Thank you.

SENATOR RUSSMAN: I have handled almost two thousand divorce cases in the past twenty-four years. Having listened to many, many, parents complain about how the child always, either actually delivers the child support check, sometimes the father gives the child, a little kid, the money to give to the mother, so that they use them as a pawn or they sometimes will sit near the door for an entire day, with their coat on, waiting for a parent to pick them up that never calls or never shows up. Believe me, trauma goes on amongst some of these young kids. It really is two sessions. One is geared towards talk of mediation and trying to use alternative dispute resolution in terms of issues that come up between a husband and a wife. The other one is, dealing with how not to put the children in the middle. If you have an issue, you need to deal with the other spouse and not have the kids relaying messages like, "Tell your mother this and tell your father that." If you want children to not do well in school and to be highly stressed and have psychological and medical problems and not grow up to be balanced, functioning people in society, divorce can certainly do it. Matter of fact, most of the kids that you will find in the state's prison right now, they came from homes that were divorced. So certainly, this is well worth the effort and is a good program and it certainly should be considered if at all possible.

SENATOR PIGNATELLI: I rise to support Senator Russman and Senator Hollingworth's speeches and to respond to something that Senator David Wheeler said when he said "forced parenting classes." Perhaps we would be better off in this country if people, before they had children, learned about their behavior and how it affects children. But certainly this is not forced parenting classes. These are classes that talk to parents about the logical consequences that affect children as a result of divorce. Certainly, there are many good parents out there who love their children who happen to be going through a divorce and don't realize

what the effect of their behavior has on these children. This class educates parents as to how their behavior affects their children. I certainly support the parenting classes. I would support it statewide if we could do that right now. Thank you very much.

Senator D. Wheeler requested a roll call.

Senator D. Wheeler withdrew his request for a roll call on the committee amendment.

Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: Gordon, Johnson, Fraser, Rubens, McCarley, Patenaude, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: F. King, D. Wheeler, Francoeur, Danais.

Yeas: 20 - Nays: 4

Adopted.

Ordered to third reading.

HB 523, relative to the appointment of guardians ad litem. Judiciary Committee. Vote: 6-0. Ought to pass, Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 523 protects the children in court proceedings and it requires that the guardians ad litem appointed in child custody hearings in superior court, be held to the same standards, requirements and rules as guardians ad litem appointed in divorce or separation proceedings. In the cases where the parents of the child are indigent, the bill would have the guardian ad litem compensated from the special guardian ad litem fund established under RSA 458:17 b. The bill also makes the rest of this statute gender neutral. The Judiciary Committee recommends that this ought to pass.

Adopted.

Ordered to third reading.

SB 34, repealing laws relative to abortion. Public Institutions, Health and Human Services Committee. Vote: 5-3. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: Senate Bill 34 repeals New Hampshire's RSA 585:12, 13, 14. Relative to abortion. These laws were enacted as the nation was in the act of formalizing and regulating the practice of medicine. In 1848, New Hampshire enacted these laws to protect the women from ill trained medical doctors of the mid-to-late 19th century. As good as the intention may have been in 1848, these laws are now antiquated and do not reflect the medical and social realities of our times. These laws are not enforceable and are in direct conflict with the constitution of the United States. The state should clean up our laws and promote laws that respect the right to privacy. In 1973, twenty-four years ago, the Supreme Court of the United States of America decided in *Roe v Wade*, that abortion was legal. The courts have said repeatedly, that a woman

has the constitutional right to choose an abortion without undue interference from government. We trust New Hampshire women to make their own personal and private decisions in this matter. If the Supreme Court decision of *Roe v Wade* were overturned, the New Hampshire RSAs that we are discussing here would prevail, if they were considered to be constitutional, which I am sure that they wouldn't be. These laws eliminate safe and legal abortions in New Hampshire. Keeping these laws would not do away with abortions, just drive it under ground. Women would travel out of state or seek back alley or self induced means to terminate the pregnancy. The Public Institutions, Health and Human Services Committee recommend ought to pass.

SENATOR D. WHEELER: If this repeal passes, unamended, it will make New Hampshire the most pro-abortion, pro-death state in the union. The repeal will plunge us into a vacuum regarding abortion laws. Abortion will become legal at any time during pregnancy, up until the moment of birth, even after a partial birth abortion would be legal and a baby may be killed. There are no reporting laws in New Hampshire. We don't know how many abortions are performed, we don't know what gestation age and we don't know if they are a women's first, second or third abortion. Anybody would be allowed to do an abortion. It would morally irresponsible to take this approach. I think that some testimony from Attorney Harrison during the public hearing is very appropriate, "If the bill were passed, intentionally killing a fetus, even at nine months gestation, would be subject to no legal sanction, if it took place before delivery. I have talked to a lot of people about this bill, including people from various religious traditions and people who do not consider themselves pro-life and almost unanimously, they think that it would be against the law to perform an abortion after viability where the sole purpose is to kill the fetus before it is born. Most of them including non pro-life ones, were horrified to find out that the legislature looked likely to pass a law this session, the sole effect of which would be to legalize such abortions. To do this repeal would be void of any law and is equivalent of sanctioning abortions. All abortions would be legal in this state. Innocent blood would be shed by our vote and will be on our conscience." Please vote inexpedient to legislate.

Senator D. Wheeler offered a floor amendment.

1997-0994s

08/02

Floor Amendment to SB 34

Amend the title of the bill by replacing it with the following:

AN ACT repealing laws relative to abortion and relative to certain abortions.

Amend the bill by replacing all after section 1 with the following:

2 New Subdivision; Certain Abortions Prohibited. Amend RSA 132 by inserting after section 21 the following new subdivision:

Certain Abortions Prohibited

132:22 Certain Abortions Prohibited.

I. A physician or any individual shall not perform a partial-birth abortion.

II. In this section:

(a) "Abortion" means the use of any means to terminate the pregnancy of a woman with knowledge that the termination will, with reasonable likelihood, cause the death of the unborn child.

(b) "Partial-birth abortion" means an abortion in which any person performing the abortion partially vaginally delivers a unborn child before killing the child and completing the delivery.

III. Any person who violates the provisions of this section shall be guilty of second degree murder as provided in RSA 630:1-b.

3 Partial-Birth Abortions. Amend RSA 630:1-b, I to read as follows:

I. A person is guilty of murder in the second degree if ***such person***:

(a) [He] Knowingly causes the death of another; ~~or~~

(b) [He] Causes such death recklessly under circumstances manifesting an extreme indifference to the value of human life. Such recklessness and indifference are presumed if the actor causes the death by the use of a deadly weapon in the commission of, or in an attempt to commit, or in immediate flight after committing or attempting to commit any class A felony; ***or***

(c) Performs a partial-birth abortion in violation of RSA 132:22.

4 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill repeals the laws making it a crime to perform an abortion.

The bill also prohibits certain abortions and declares that any person who violates this law shall be guilty of second degree murder.

SENATOR D. WHEELER: This amendment would ban partial birth abortions. I would hope that we could agree on this part of the abortion debate. It seems so simple and so clear. The U.S. House and the U.S. Senate have passed partial birth abortion bans by almost two-thirds of each chamber. More than one-third of the democrats voted for it, including Democrat Leader Richard Gephardt, Second Ranking Whip, David Bonior, Martin Frost, Chairman of the Democrat Congressional Campaign Committee and Congressman Patrick Kennedy, Senator Daniel Patrick Moynihan of New York, a supporter of legal abortions said, "I think that this is just too close to infanticide." He also said that he would vote to override President Clinton's veto. Most of the states that have considered this partial birth abortion ban, have passed them. Alabama, South Dakota, South Carolina, Mississippi, Michigan, Utah, Georgia and Arkansas. Even the home state of Doctor Haskell who is the original perpetrator of this procedure, it has been banned in his home state. I would hate to think that it would come here to New Hampshire to perform partial birth abortions. It has been banned in President Clinton's home state. Last time that the President vetoed this with false information. People said that it was rare and was needed to save the life of the mother, it is just not the case. Some of you may be wondering what a partial birth abortion is. Some of you have asked me that question and so I am going to let you know. This bill bans partial birth abortions, which are used in the fifth, sixth and seventh months of pregnancy and even later. The abortionist pulls a living baby, feet first, from the womb, except for the head. Then he punctures the base of the skull with a long surgical scissors. He inserts a tube and removes the brain with a machine. This is what we are talking about ladies and gentlemen, and it is wrong. According to Doctor White a neurosurgeon, and he said that without doubt, this is a dreadfully painful experience for any infant subject to such a surgical procedure. The AMA has come out against this procedure. The AMA's legislative counsel after hearing from sponsors of the partial birth abortion ban, voted without dissent, to recommend that the AMA board endorse the partial birth abortion ban. They felt that this was not rec-

ognized legal medical technique. If we turn down this amendment today, we will be the first state in the country, to my knowledge, when the full Senate has turned down a ban. The blood of these innocent children will cry out for justice.

SENATOR RUSSMAN: Senator Wheeler, would it be fair to say that this is an even more restrictive measure than our own House of Representatives voted down by better than a 2-1 margin, just a few weeks ago?

SENATOR D. WHEELER: It is fair to say that the penalty in this bill is greater than was in the House Bill, yes, sir. I might also say that the penalty is second degree murder. For anyone who takes a baby out of the womb and holds it by the feet and stabs it in the head and kills it, it ought to be second degree murder.

SENATOR FRASER: Senator Wheeler, would you agree with me that the content of the amendment 0994 is a major, major piece of legislation?

SENATOR D. WHEELER: Senator Fraser, I think the contents of 0994 are very easy to understand. It is a very short amendment. Partial birth abortion is a very easy thing to understand.

SENATOR FRASER: Mr. President, if I can get an answer to my question, does Senator Wheeler feel that the content of the amendment 0994 is a major piece of legislation?

SENATOR BARNES (In the Chair): That, I think, deserves a yes, senator.

SENATOR D. WHEELER: Yes.

SENATOR FRASER: And would you further agree, if I may, Mr. President, would you further agree that the content of 0994 has not had a public hearing?

SENATOR D. WHEELER: No, I would not, and let me explain. Let me also explain for those pro-choice people who didn't bother to stay around for the hearing or they would know this. Many, many, people came in and testified and said that if we were going to take this law off of the books, give us an alternative. This has had a public hearing and here it is.

SENATOR HOLLINGWORTH: Senator Wheeler, this is twice that you mentioned that if you are going to take the laws off of the books, that you should give them something else. Clearly, doesn't federal law, under Roe versus Wade has precedent over state law if the state law is silent?

SENATOR D. WHEELER: If the state law is silent? If we do this repeal Roe versus Wade will be in full effect, but if the state remains silent, the practical effect of that for New Hampshire is that abortions are legal right up until the moment of birth.

SENATOR HOLLINGWORTH: Not under Roe versus Wade.

SENATOR D. WHEELER: Oh yes.

SENATOR HOLLINGWORTH: Under Roe versus Wade, that is not true. Is that not true, Senator Wheeler?

SENATOR D. WHEELER: You cannot consider Roe versus Wade without considering Doe versus Bolton the companion decision that was issued the day after Roe versus Wade that defines the health of the mother.

SENATOR FRASER: Senator Wheeler, when did this public hearing take place?

SENATOR D. WHEELER: I don't have the particular date for you, but sometime a few weeks ago.

SENATOR FRASER: Was it before April 2?

SENATOR D. WHEELER: Yes.

SENATOR FRASER: Well, for the record, Mr. President, this floor amendment that is cosponsored by Senator Wheeler and Senator Francoeur and Senator Johnson is dated April 2. Thank you.

SENATOR COHEN: I just wanted to point out that lacking in this bill is any reference to the late term abortions happening to save the life of the mother. It is an extremely rare procedure, and it is only done to save the life of the mother, but this has no respect for the life of the mother, apparently. We should defeat this amendment.

SENATOR D. WHEELER: Senator Cohen, and I can dig this out in a minute if you would like me to, I have interviews by Doctor Haskell who is the perpetrator of this procedure. Doctor Haskell testified in an interview with a magazine that this procedure is not rare, it is not to save the life of the mother, it is purely elective. Do you believe that, Senator?

SENATOR COHEN: I believe that there is no reference in here whatsoever to saving the life of a mother.

Senator Russman moved the question.

Adopted.

Question is on the floor amendment.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Johnson, Rubens, Roberge, D. Wheeler, Francoeur, Podles, Barnes, J. King, Danais, Delahunty.

The following Senators voted No: Gordon, Fraser, McCarley, Patenaude, Whipple, Blaisdell, Squires, Pignatelli, Larsen, Russman, K. Wheeler, Hollingworth, Cohen.

Yeas: 11 - Nays: 13

Floor amendment failed.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Fraser, Rubens, McCarley, Patenaude, Whipple, Blaisdell, Squires, Pignatelli, Larsen, Russman, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: Johnson, Roberge, D. Wheeler, Francoeur, Podles, Barnes, J. King, Danais, Delahunty.

Yeas: 15 - Nays: 9

Adopted.

Ordered to third reading.

SB 93, relative to employees of employers who hire recipients of state assistance under the employment assistance program. Public Institutions, Health and Human Services Committee. Vote: 6-0. Ought to pass with amendment, Senator Larsen for the committee.

1997-0920s
05/08

Amendment to SB 93

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Restrictions on Hiring Employment Program Participants. Amend RSA 167 by inserting after section 82 the following new section:

167:82-a Infringement on Rights of Other Employees Prohibited.

I. The employment program shall not use participants in any way contrary to federal law under section 407(f) of the Social Security Act.

II. No participant in the employment program shall be required to work in unsubsidized employment for more hours than would be needed to produce an equivalent compensation if the participant were paid at the federal minimum wage level, unless a greater number of hours is necessary for the participant to meet federal work participation requirements.

III. Participants in the employment program shall receive the protections regarding sexual harassment and work conditions, not related to compensation and benefits, which are available to regular employees in that workplace such as safe environment, non-discrimination, and adequate rest and meal periods.

2 New Section; Restrictions on Hiring Alternative Employment Experience Program Participants. Amend RSA 167 by inserting after section 91 the following new section:

167:91-a Infringement on Rights of Other Employees Prohibited.

I. The alternative employment experience program shall not use participants in any way contrary to federal law under section 407(f) of the Social Security Act.

II. No participant in the alternative employment experience program shall be required to work for more hours than would be needed to produce an equivalent compensation if the participant were paid at the federal minimum wage level, unless a greater number of hours is necessary for the participant to meet federal work participation requirements.

III. Participants in the alternative employment experience program shall receive the protections regarding sexual harassment and work conditions, not related to compensation and benefits, which are available to regular employees in that workplace such as safe environment, non-discrimination, and adequate rest and meal periods.

AMENDED ANALYSIS

This bill prohibits the New Hampshire employment program or the alternative employment experience program from using participants in any way contrary to certain federal laws.

This bill also prohibits requiring a participant to work under certain unsubsidized employment conditions or for more than a certain number of hours and requires that participants be afforded certain employment protections.

SENATOR LARSEN: As amended, SB 93 protects participants in the New Hampshire Employment Program or the Alternative Employment Experience Program from being asked to work in conditions that are contrary to federal law. Under provisions of the bill, these participants will not displace current employees' impaired existing contracts or bargaining agreements, fill positions when another one is laid off or the

same equivalent position, or to infringe on the promotional opportunities of current employees. No participant in the work program shall be required to work in unsubsidized employment for more hours than would be needed to produce an equivalent compensation if the participants were paid at the federal minimum wage level. Additionally, SB 93 provides participants with protections available to regular employees in the workplace. The Public Institutions, Health and Human Services Committee recommend this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 181-FN, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers. Public Institutions, Health and Human Services Committee. Split report; Vote: 4-4; Ought to pass with amendment, Senator McCarley for the committee. Split report; Vote: 4-4; Inexpedient to legislate, Senator D. Wheeler for the committee.

1997-0914s
01/09

Amendment to SB 181-FN

Amend the title of the bill by replacing it with the following:

AN ACT allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and establishing a committee to study permitting certain prisoners to be sentenced to substance abuse treatment centers.

Amend the bill by replacing all after the enacting clause with the following:

1 Prisoner Disciplinary Period; Limited to Violent Felons. Amend RSA 651:2, II-e to read as follows:

II-e. To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year *to the New Hampshire state prison, and convicted of a violent crime as defined in RSA 651:5, XIII*, shall be added a disciplinary period equal to 150 days for each year of the minimum term of his sentence, to be prorated for any part of the year. The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This additional disciplinary period may be reduced for good conduct as provided in RSA 651-A:22. There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.

2 Disciplinary Period Limited to Violent Felons. Amend RSA 651-A:6, I to read as follows:

I. A prisoner may be released on parole upon the expiration of the minimum term of [his] *the prisoner's* sentence, minus any credits received pursuant to RSA 651-A:23, plus the disciplinary period added to such minimum under RSA 651:2, II-e *if the prisoner was convicted of a violent crime as defined in RSA 651:5, XIII*, any part of which is not reduced for good conduct as provided in RSA 651-A:22, provided that there shall appear to the adult parole board, after having given the notice required in RSA 651-A:11, to be a reasonable probability that [he] *the prisoner* will remain at liberty without violating the law and will

conduct himself *or herself* as a good citizen. Any prisoner so released shall be given a permit by the board to be at liberty from prison during the unexpired portion of the maximum term of [his] *the prisoner's* sentence.

3 Good Conduct Credits; Minimum Sentence. Amend RSA 651-A:22, III and IV to read as follows:

III. If, as a result of the review provided in paragraph I, the commissioner determines that a prisoner has exhibited good conduct, [he] *the commissioner* may:

(a) *If the prisoner was convicted and is incarcerated for a violent crime as defined in RSA 651:5, XIII*, reduce the additional disciplinary period provided in RSA 651:2, II-e of such prisoner by up to 12-1/2 days for each month during which the prisoner has exhibited such good conduct.

(b) *For any other prisoner, reduce the minimum sentence of such prisoner by no more than 12 1/2 days for each month during which the prisoner has exhibited such good conduct.*

IV. Credits may be granted subject to the provisions of this section provided that:

(a) Any prisoner who escapes from the state prison or from custody of any person charged with [his] custodial safekeeping *of such prisoner*, or from the limits of [his] minimum custody or community corrections boundaries or agreements will automatically suffer the loss of all accrued good conduct credits. This loss is in addition to and not in lieu of any other administrative or judicial punishment later imposed for the escape.

(b) Any serious act of misconduct or insubordination, or persistent refusal to conform to prison regulations during [his] confinement shall subject the prisoner to the loss of all or any portion of such credits, at the discretion of the commissioner.

(c) The commissioner at [his] *the commissioner's* discretion may restore all or part of the good conduct credits lost under subparagraphs (a) or (b) should the prisoner later demonstrate exemplary behavior.

(d) Provided further, that upon a prisoner's release on parole any such credits earned prior to [his] release shall not thereafter be lost.

(e) *If a nonviolent offender commits any crime which results in incarceration, for the purposes of sentencing calculations, the sentencing provision of RSA 651:5, XIII shall apply if the nonviolent offender is subsequently incarcerated at the New Hampshire state prison.*

4 Department of Corrections; Appointment of Probation/Parole Officers. The department of correction shall hire 5 additional probation/parole officers each year for the next 2 years and 2 probation/parole officers each year for the next 8 years.

5 Committee Established. There is established a committee to study:

I. All aspects of the possible enactment of the following or substantially similar language into law:

(a) In cases of persons convicted of felonies or misdemeanors, except for persons convicted of a violent crime, the sentencing court may require the offender to serve the sentence in an institution instead of incarceration at a state prison if such institution is specifically designed to treat and control alcohol or substance abuse, or both, and provided that the sentencing court determines that the offense was related to the use of alcohol or controlled drugs, or both. After a period of successful in-patient treatment, as determined by the institution and the department of corrections' field service staff, and notice to the sentencing court,

the offender may complete the sentence in the community. The offender shall continue to be monitored by the department of corrections' field service staff and the institution and shall participate in any after care or home programs as directed by the institution or the department of corrections' field service staff. No period of in-patient care shall exceed 6 months.

(b) If at any time the offender, in the opinion of the sentencing court or institution, has not responded to treatment or has violated any orders of the court or rules of the institution the sentencing court shall order the offender incarcerated at the state prison for the remainder of the sentence.

(c) All costs incurred for placement in such an institution shall be borne by the department of corrections and shall be paid to such institutions in a timely manner. The offender shall reimburse the department of corrections for the cost of confinement and treatment at an institution and after-care home if the court determines the offender has the resources to pay.

II. The following issues in relation to the plan described in paragraph I:

(a) Use of short-term, residential institutional programs for non-violent offenders with drug, alcohol, or drug and alcohol related problems.

(b) Length of stay.

(c) Availability and location of such institutional programs.

(d) Costs associated with the use of such institutional programs.

(e) Possible restrictions to be placed on offenders in such institutional programs.

(f) Use of cooperative agreements or contracts to provide such programs.

(g) Responsibilities of state agencies.

(h) Preferred provider organizations' responsibilities.

(i) Enforcement of law and rules relative to those committed to such institutional programs.

III. Any other issues relevant to the implementation of the plan described in paragraph I.

6 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

7 Duties. The committee shall study all issues necessary to achieve the purposes for which the committee was established.

8 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

9 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

10 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill allows prisoners who have not been convicted of a violent crime to earn good conduct credits reducing such person's minimum sentence.

Current law only permits a prisoner's good conduct credits to reduce the disciplinary period added to each minimum sentence.

This bill establishes a committee to study allowing certain prisoners to be sentenced to substance abuse treatment centers.

This bill also requires the department of corrections to hire 5 additional probation/parole officers each year for the next 2 years and 2 additional probation/parole officers each year for the next 8 years.

SENATOR D. WHEELER: I will try to be brief, the hour is getting late. Senate Bill 181 proposes to allow prisoners who are not convicted of a violent crime to earn good conduct credits in order to reduce their minimum sentence. Currently, there does exist a good conduct credit system; however, the credits are reducing an additional one hundred and fifty days added to the minimum sentence a prisoner was given, not the minimum sentence directly. This is known or commonly known as "truth in sentencing" and it ensures that the person will serve at least their minimum term. Yes, SB 181 does propose a reduction in the minimum sentence and yes, someone sentenced for one year could potentially be out in eight months. We should not be taking a position that we are soft on crime. The minority report is inexpedient to legislate. I would ask that you support the minority report.

SENATOR MCCARLEY: Senate Bill 181 would allow prisoners who are convicted of non-violent crimes to earn good conduct credits in order to reduce their minimum sentence. This bill proposes a reduction to the minimum sentence based on these good conduct credits. While there is a variety of reasons why prisoners might lose these credits during their term, good conduct credits would, hopefully, teach responsibility and be an incentive to know that doing the right thing will allow you to get out and to actually succeed back in the real world. Additionally, this bill will allow the Department of Corrections to hire five additional probation parole officers each year for the next two years and then an additional two probation parole officers each year for the next eight years. Finally, SB 181 creates a study committee to examine allowing people convicted of non violent crimes to be sentenced to substance abuse centers. Currently, we know that approximately eighty percent of all prisoners come to prison with a drug or alcohol problem crediting overcrowding crisis at the prison. Four members of the Public Institutions, Health and Human Services Committee recommend ought to pass as amended. Thank you.

SENATOR FRANCOEUR: Senator McCarley, could you tell me how you think that your constituents are going to feel when somebody who gets sent for three to six years and they find out that they are out in little less than two years?

SENATOR MCCARLEY: I don't think that this bill necessarily says anything specific. We could set up scenarios all day for relatively speaking how people's time in incarceration and how they are coming out, but we do know that right now we have a higher recidivism rate in the first place, and the hope would be that if we allow people through some learning and what have you, within the prison system with that and incentive award systems, particularly to those people guilty of non violent crimes. They might indeed come out and return to society and be contributing to society rather than our paying for them to stay in prison.

SENATOR FRANCOEUR: Senator McCarley, currently if you are in prison for three to six years, it would be six years and then you earn your good time back off of that, is that not correct? So they are earning time and it gives them an incentive to do well in prison, obey the rules and they will get out in three years?

SENATOR MCCARLEY: That is currently correct.

SENATOR J. KING: I rise in support of the bill. Since 1982 when truth in sentencing began in New Hampshire, the New Hampshire state prison population increased more than 500 percent. So if the system is working... there is something wrong with the system. If there is anything that we should be looking at, it should be to decrease the prison population, not to increase it. We can't thank ourselves or pat ourselves on the back if it increased by 500 percent in ten to fifteen years or since truth in sentencing went into effect. As I said earlier, we talk about a kindergarten or school or something and everybody shudders, but you talk about a prison and locking people up and no problem for some reason or another. If you feel good about locking someone up. I am not going to tell anyone that I am soft on crime. If there is a violent offender there, lock him up and keep him as long as you can keep him in there. There is a difference between a violent offender and a non violent offender. There is a big difference between the two. The only one who reaps any rewards from this is the non violent offenders. The only ones. The violent offenders who serve the same sentences that he is serving at the present time. Someone said that they have already got the system into place. They have changed the truth in sentencing law, it is not the same as it was when it was originally passed. Few people are aware of it. But the one who has the say over where that person... some of the violent ones are included, by the way, I guess they have about three categories that are not included. My bill excludes any violent offenders of coming out. But they have the commissioner who has the right to say who goes out. My feeling is that should be granted to everyone there. The rules should be spelled out quite clearly. If they follow the rules and do get out, then they go out, there is no question about it. But right now, and I don't know how many people have been released in the past by the commissioner, I didn't even bother to check. But if you are going to have a system, it should be open to every person in there that is a non violent person. So as I said, less than 400 in 1982 to over 2,000 people at the present time and we are now talking about building another prison. If we transfer or even if we don't transfer, the one that we have up here is packed. We are at our maximum at the Women's prison too. We have to decide, can we plan for the future? Can we try something to see if it does work? If they do perform well while they are there, the non violent ones, is it that bad to let them out early or some way down the road let everybody out or a good part of them because they have been there the longest. There is no rhyme or reason to it. It hasn't happened here yet, probably, but it is happening in many of the other states. Let's decide whom we are going to let out. It should be the non violent offender who has that opportunity. It is not going to be given to them. The difference between the two is, the non violent offender gets his good time as he earns it up to his minimum. The truth in sentencing, is you serve your minimum and then you take your good time. We do have to look at other ways, more effective ways, and that is the basis of putting this bill in there. The history of it before it was changed, the big rise up was because it included some of the violent offenders. They weren't called soft on crime. If you think locking

people up, non violent prisoners, and keeping them in there is being tough on crime, it might be to you, but it is not the way to do it. Violent offenders, no problem at all. This bill also provides and saves you about three million dollars a year. Now that three million dollars a year is for the first two years is going to get five probation officers for the first year and five probation officers and it is not going to cost any money to the state. Five the second year and two for eight years after. That is what I would like to see happen. It is already in there. The people who are released earlier are going to have some supervision out there. If you are going to release them on parole, you should have somebody out there to take care of them and the same officer also takes care of them before they go into prison, the probation officer. So if you have better supervision there, and if it works, your prison population should go down. I will tell you why I say that about the ones who are released from prison having co-supervision. One-third to one-half of the new entries each year are parole violations. Just think if we could get one-half of those not going in there by having some officers out there to work with them, to spend some time with them, to keep them working, treat them like human beings. It can be done. The other part is that the judge can sentence a person to prison and then if it is an alcohol related or a drug related, they can also then, send them to an institution that deals with alcohol and drugs. There were so many questions about that, that we sent it to a study committee to see what was available and what the cost would be and everything else. So that is another area that is covered by the bill. As I said, the good time, the law is spelled out quite clearly on what you have to do. Sooner or later you are going to have to deal with the situation. I am not soft on crime. I spent 20 years working in the New Hampshire Probation Department. My co-partner, my cousin there from the North country, is my co-sponsor on this bill and he spent years up in the county jail, working with the prisoners. I guess that is all that I will say. I am sure that Senator Fred King will give you his side of the story. But it is a good program and it is at least worth the try. If it doesn't work in the future, you can change it, but God, you can't keep filling those places up. I can remember when this new prison was built several years ago and that was going to take care of everything. Well, it hasn't and it is packed, and we have an addition up over there, and we have the one up in Goffstown too. If you build them, you are going to fill them. You have to work with them and hope that they don't go back. So try it. It just might work.

SENATOR BLAISDELL: Senator King, would you believe if I told you that what you just told everybody in this room, that it does work? If anybody would like to have an example of that, I would be very glad to give it to them. We took a man out of the prison and put a bracelet on him and kept him in the substance abuse hospital, and today, Senator King, would you believe that that man is now a counselor, making his own way in life, and has been free of anything else for two years? Would you believe me, Senator King?

SENATOR J. KING: I certainly would believe you. I know that it works because I said that I spent 20 years working in that business. The prison time... there are about two million people in the country on probation or parole.

SENATOR BLAISDELL: Would you believe me, Senator King, if I said that if we took some of these prisoners to earn good conduct credits that we ought to bring them in to this Senate session today, maybe they would do better?

SENATOR BARNES (In the Chair): Senator Fred King from the north would you please clear up that comment that was made by your cousin from the south country.

SENATOR F. KING: I will take care of that later. But I would just like to point out to this body that this legislature is faced with two choices, they can either continue to lock people up in prisons and build prisons, or they can try other programs that may or may not work. You can't have it both ways. This is politically, a very, very unpopular position. But the choice is going to have to be made now whether we are going to have alternative programs, more of them, or whether we are going to build more prison space. There is no other choice.

Amendment adopted.

Question is on sending it to Finance (Rule #24).

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Podles.

The following Senators voted Yes: F. King, Gordon, Fraser, McCarley, Patenaude, Whipple, Roberge, Blaisdell, Larsen, Barnes, J. King, Russman, Danais, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Johnson, Rubens, D. Wheeler, Squires, Pignatelli, Francoeur, Podles.

Yeas: 17 - Nays: 7

Adopted.

Referred to the Finance Committee (Rule #24).

SB 209-FN, establishing a residential care pilot program and transferring funds for its purpose. Public Institutions, Health and Human Services Committee. Vote: 5-3. Ought to pass with amendment, Senator McCarley for the committee.

1997-0890s

01/08

Amendment to SB 209-FN

Amend the bill by replacing section 3 with the following:

3 Transfer. The sum of \$600,000 for the biennium shall be transferred from funds already appropriated for the biennium ending June 30, 1999, from nursing home proportionate share funds within the department of health and human services, for the purposes of this act.

AMENDED ANALYSIS

This bill establishes a 2-year pilot program to extend the home and community based care program for the elderly and chronically ill and requests the commissioner of the department of health and human services to amend the Home and Community Based Care waiver for the Elderly and Chronically Ill.

The bill transfers funds from nursing home proportionate share funds within the department of health and human services for the purposes of the bill.

SENATOR MCCARLEY: Senate Bill 209 will create a two-year pilot program to extend the Home and Community Based Care Program for the Elderly and Chronically Ill and make a request to the commissioner of Health and Human Services to amend the Home and Community

Based Care waiver for the Elderly and Chronically Ill. This bill is a result of five years of study. It begins to address some of our concerns with our growing elderly population. For many, residential and supported residential care offers a middle-of-the-road option for elderly care. There are many situations where families can no longer meet the care needs of an individual in their home settings, but going to a nursing home is not an option the family or the person wants to pursue. Residential care programs like this bill will propose, will provide that option. Basically, we will allow our patients to be in an environment that will meet both their physical and emotional needs, but does not involve being in a nursing home. The bill would transfer six hundred thousand dollars for the biennium, from funds already appropriated from the Nursing Home Proportionate Share Funds within the Department of Health and Human Services. The committee recommends ought to pass as amended.

SENATOR RUBENS: Senator McCarley, would this type of service include what is called "congregate care," by any chance?

SENATOR MCCARLEY: Actually, no. This is specifically residential and supportive residential care. Congregate care, as I understand it, would not be a part of this.

SENATOR SQUIRES: This is a small bill, it has had no press, it has had no glamour like the telephone poles or the power of race tracks or airstrips or other things. But to me, this bill is one of the reasons that I came to the Senate. It strikes at the current policy of the state of New Hampshire, which is to either put a person in a nursing home at an enormous cost or take care of them in the home setting, also at an enormous cost. The reason that it doesn't have any glamour is that the people involved don't have a whole lot of glamour. These by and large are women. The monthly income for these individuals is six hundred and ninety one dollars and their total assets are fifteen hundred dollars. The state of New Hampshire already provides some support. For a slight increase in support, these individuals can move into residential care at two different levels and somehow spend their life in a little bit of dignity without worrying about how to get by on six hundred and ninety one dollars a month. This is a very important bill. It touches people who really have no voice and I urge you to pass it.

SENATOR PATENAUDE: I rise in support of this bill. Thank you.

Amendment adopted.

Recess.

Out of recess.

Referred to the Finance Committee (Rule #24).

SB 210-FN, relative to day care in private homes, local regulation of school-age day care providers, and registration of unlicensed day care providers. Public Institutions, Health and Human Services Committee. Vote: 6-2. Rereferred to committee, Senator Podles for the committee.

SENATOR PODLES: Mr. President, there were many unanswered questions at the hearing on this bill and SB 103. It is a similar bill that is currently in the House creating a committee to study the issues relating to the licensing of child day care centers. The Public Institutions, Health and Human Services Committee believes that this study will cover some issues in SB 210 and its findings can be worked into SB 210 in the next session. For this reason, the committee recommends this bill, SB 210, be rereferred to committee.

Committee report of rereferred is adopted.

HB 585, relative to prohibiting littering, as enforced by the fish and game department. Wildlife and Recreation Committee. Vote: 5-0. Ought to pass, Senator McCarley for the committee.

SENATOR MCCARLEY: This bill is sponsored on behalf of the New Hampshire Fish and Game Department. Currently, littering carries a misdemeanor penalty. Prosecution of these misdemeanors is costly and time consuming to the department and the courts don't need the extra case loads. This bill sets up a littering violation within the Fish and Game statutes. This would allow the fish and game officers to simply ticket people for littering and avoid the courts. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 706, establishing a commission on animal damage control to review the fish and game laws relating to damage by game birds and game. Wildlife and Recreation Committee. Vote: 5-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-0928s
10/01

Amendment to HB 706

Amend paragraph I(a) of section 2 of the bill by replacing it with the following:

(a) Four members of the senate, all of whom shall be members of the wildlife and recreation committee, appointed by the president of the senate.

Amend the bill by replacing section 3 with the following:

3 Duties. The commission shall review the New Hampshire fish and game statutes relating to damage by game birds and game, RSA 207:22 through RSA 207:30, any other statutes or rules that may be relevant, and their relevance and applicability. The commission shall recommend appropriate legislation regarding animal damage control in New Hampshire.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill will establish a commission to study the fish and game laws relative to the damage by birds and game. The farmers of this state have a real problem with game eating their crops, especially with the ever growing deer population. Currently, there are different laws that apply to damage by game and how the state reimburses the farmers for the damage. Hopefully, through this commission, these laws can be codified to deal with an issue in a more structured way. The committee recommends ought to pass as amended.

SENATOR RUBENS: Would the members of the Senate not already on three hundred and eighty committees and commissions, willing to serve on this one, please stand up?

SENATOR ROBERGE: Actually, they already volunteered.

SENATOR RUBENS: Oh they did, okay. I withdraw my question then.

Amendment adopted.

Ordered to third reading.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 172, extending the reporting day for the committee studying the issue of the use and disposal of sludge or septage.

HB 267, prohibiting petroleum-powered motors on Little Dan Hole Pond in the town of Ossipee.

HB 307, relative to the adoption of local river corridor management plans by planning boards.

HB 403, prohibiting the use of trotlines to take fish.

HB 681, relative to penalties for certain violations of fish and game laws and granting rulemaking authority to the executive director relative to registration agent fees for wild turkey permits.

Senator Barnes moved adoption.

Adopted.

ANNOUNCEMENTS**RESOLUTION**

Senator Johnson moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that we be in recess for Enrolled Bill Reports and amendments and House messages and introduction and referral of bills, and when we adjourn, we adjourn until Thursday, April 10, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

CACR 13, RELATING TO: the governor's veto power. **PROVIDING THAT:** the governor shall have line item reduction and line item veto power of items in any bill making appropriations of money.

Recess.

Out of recess.

Question is on ordering to third reading.

A division vote is requested.

A 3/5 vote is necessary.

Yeas: 16 - Nays: 8

Ordered to third reading.

Third reading and final passage

SB 34, repealing laws relative to abortion.

SB 36, relative to incarcerated convicted persons receiving workers' compensation payments.

SB 53-FN, relative to payment by the retirement system of certain medical benefits for group II members and for certain permanent firemen on disability retirement.

SB 71-FN, establishing a committee to identify and study statutes and ordinances in cases in which the penalty is not specified by statutes and clarifying the right to a jury trial in cases in which a civil penalty is imposed for a violation.

SB 82, relative to determination of reasonable compensation for certain trustees.

SB 93, relative to employees of employers who hire recipients of state assistance under the employment assistance program.

SB 104, relative to rate setting for purposes of automobile insurance and homeowners insurance.

HB 114, requiring members of conservation commissions to be residents of the city or town which they represent.

SB 122, establishing a commission to examine the effects of the managed care industry on those belonging to the disabled and the mental health communities.

HB 140, relative to the sale of apples and relative to maple syrup and sap hydrometers and orders issued by the commissioner for noncompliance with the laws regulating maple and honey products.

HB 158, creating a committee to study the establishment of a New Hampshire volunteer program.

SB 159, establishing a committee to study increased public access to data concerning physicians and persons certified or registered under RSA 330-A.

HB 163, repealing the law which requires the commissioner of health and human services to deny the application or renewal of the license of an emergency medical technician convicted of driving while intoxicated.

SB 167-FN, relative to the regulation of naturopathic practitioners.

SB 173-FN, relative to license and registration suspensions.

SB 177-FN, relative to the liability of prospective adoptive parents for court ordered services.

SB 178-FN, regulating managed care systems of health care delivery.

HB 194-FN, requiring any person erecting, installing, maintaining or exercising control over a mooring on Ossipee Lake to obtain a mooring permit from the division of safety services, department of safety.

SB 203-FN-L, deleting the state prison and adding county correctional facilities to the provisions relating to incarcerated educationally disabled children.

SB 205-FN-L, establishing a special school district to provide special education for eligible inmates in the state prison system.

SB 206-FN-A, relative to seminars conducted by the superior court for persons seeking custody or visitation of minor children and relative to fees charged for such seminars.

SB 211-FN, making technical changes under the motor vehicle financial responsibility laws, insurance fraud laws, and laws regulating managing general agents, reinsurance intermediaries, and third party administrators.

HB 217, relative to outdoor advertising hearings in the department of transportation.

SB 217, relative to control of accessory uses on private land, including aircraft takeoffs and landings.

HB 227-L, relative to North Hampton property taxes.

HB 228, relative to the definition of "club-veterans" under the liquor laws.

HB 251-FN-L, reclassifying a portion of North Main Street in the town of Farmington and a portion of Passaconaway Road in the town of Albany.

HB 296, relative to airways toll moneys and aircraft operating fee revenues.

HB 313, clarifying the authority of security officers on the New Hampshire hospital campus.

HB 325, eliminating the correctional industries advisory board.

HB 341, relative to filing lucky 7 applications with the sweepstakes commission.

HB 349, repealing certain pari-mutuel laws relative to racing funds, disbursements of the funds, and records of receipts.

HB 383, requiring the nomination and election of the secretary of state and treasurer to be without regard to party affiliation of the candidate.

HB 425, relative to the regulation of pharmacists.

HB 450, relative to accessing directory information as defined by the Family Educational Rights and Privacy Act.

HB 523, relative to the appointment of guardians ad litem.

HB 539-L, relative to the tax lien process for quarterly tax bills in the city of Concord.

HB 585, relative to prohibiting littering, as enforced by the fish and game department.

HB 698, relative to the oil discharge and disposal cleanup fund, the fuel oil discharge cleanup fund, and the motor oil discharge cleanup fund.

HB 704, relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture beverages.

HB 706, establishing a commission on animal damage control to review the fish and game laws relating to damage by game birds and game.

HCR 2, urging all school districts in the state of New Hampshire to implement peer mediation programs.

NOTICE OF RECONSIDERATION

Senator D. Wheeler served notice of reconsideration on **HB 383**, requiring the nomination and election of the secretary of state and treasurer to be without regard to party affiliation of the candidate.

Senator J. King moved that the business of the day being completed that the Senate now be in recess.

Adopted.

In recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed the following House Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 144-FN relative to cash incentives paid to servants and agents, excluding commission employees, authorized to sell tickets. (Rep. R. Kelley, Hills 18)

HB 186-FN, relative to fees for number plates and reducing the amount of the inventory fund in the department of safety. (Rep. Wheeler, Hills 7)

HB 229-FN-A-LOCAL, establishing a reading recovery training program. (Rep. Guest, Graf 10; Rep. W. Riley, Ches 7; Rep. Durham, Hills 22; Rep. Yeaton, Merr 10; Rep. O'Hearn, Hills 26; Sen. Gordon, Dist 2; Sen. Larsen, Dist 15)

HB 436-FN-LOCAL, establishing restrictions in building aid for conversions of area schools to cooperative school districts, and relative to increasing or decreasing grades in cooperative school districts. (Rep. McKinley, Straf 2; Rep. Champagne, Ches 19; Rep. Thulander, Hills 6; Sen. Rubens, Dist 5)

HB 501, including blindness in the special education provisions, and allowing attorneys to act as neutrals in special education dispute resolution. (Rep. McKinley, Straf 2; Sen. Rubens, Dist 5)

HB 533-FN, making technical corrections in the liquor laws. (Rep. Avery, Ches 8; Rep. R. Kelley, Hills 18; Sen. Cohen, Dist 24)

HB 537-FN, relative to the practice of allied health professionals. (Rep. A. Torr, Straf 12; Rep. Steere, Ches 11; Rep. Dodge, Rock 4)

HB 667, relative to confidentiality issues concerning the exchange of information between the departments of revenue administration and employment security and relative to payment of employer contributions. (Rep. Turner, Belk 7; Sen. Danaïs, Dist 20)

HB 700-FN-LOCAL, relative to the renovation of regional vocational education centers and expanding an existing appropriation to include such renovations. (Rep. LaRose, Hills 27; Rep. Champagne, Ches 19; Rep. Cloutier, Sull 8; Sen. Squires, Dist 12; Sen. Pignatelli, Dist 13; Sen. Blaisdell, Dist 10)

HB 806-FN-LOCAL, relative to the business finance authority. (Rep. Carson, Rock 29)

HJR 1, urging the preservation and continued development of community services to people with developmental disabilities and their families. (Rep. Wallner, Merr 24; Rep. Micklon, Rock 26; Rep. Arndt, Rock 27; Rep. Weyler, Rock 18; Rep. Klemm, Rock 28; Sen. Hollingworth, Dist 23; Sen. Squires, Dist 12; Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Sen. Russman, Dist 19)

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 144 - HJR 1 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 144-FN relative to cash incentives paid to servants and agents, excluding commission employees, authorized to sell tickets. (Rep. R. Kelley, Hills 18; Ways and Means)

HB 186-FN, relative to fees for number plates and reducing the amount of the inventory fund in the department of safety. (Rep. Wheeler, Hills 7; Transportation)

HB 229-FN-A-LOCAL, establishing a reading recovery training program. (Rep. Guest, Graf 10; Rep. W. Riley, Ches 7; Rep. Durham, Hills 22; Rep. Yeaton, Merr 10; Rep. O'Hearn, Hills 26; Sen. Gordon, Dist 2; Sen. Larsen, Dist 15; Education)

HB 436-FN-LOCAL, establishing restrictions in building aid for conversions of area schools to cooperative school districts, and relative to increasing or decreasing grades in cooperative school districts. (Rep. McKinley, Straf 2; Rep. Champagne, Ches 19; Rep. Thulander, Hills 6; Sen. Rubens, Dist 5; Education)

HB 501, including blindness in the special education provisions, and allowing attorneys to act as neutrals in special education dispute resolution. (Rep. McKinley, Straf 2; Sen. Rubens, Dist 5; Education)

HB 533-FN, making technical corrections in the liquor laws. (Rep. Avery, Ches 8; Rep. R. Kelley, Hills 18; Sen. Cohen, Dist 24; Ways and Means)

HB 537-FN, relative to the practice of allied health professionals. (Rep. A. Torr, Straf 12; Rep. Steere, Ches 11; Rep. Dodge, Rock 4; Insurance)

HB 667, relative to confidentiality issues concerning the exchange of information between the departments of revenue administration and employment security and relative to payment of employer contributions. (Rep. Turner, Belk 7; Sen. Danais, Dist 20; Insurance)

HB 700-FN-LOCAL, relative to the renovation of regional vocational education centers and expanding an existing appropriation to include such renovations. (Rep. LaRose, Hills 27; Rep. Champagne, Ches 19; Rep. Cloutier, Sull 8; Sen. Squires, Dist 12; Sen. Pignatelli, Dist 13; Sen. Blaisdell, Dist 10; Education)

HB 806-FN-LOCAL, relative to the business finance authority. (Rep. Carson, Rock 29; Executive Departments and Administration)

HJR 1, urging the preservation and continued development of community services to people with developmental disabilities and their families. (Rep. Wallner, Merr 24; Rep. Micklon, Rock 26; Rep. Arndt, Rock 27; Rep. Weyler, Rock 18; Rep. Klemm, Rock 28; Sen. Hollingworth, Dist 23; Sen. Squires, Dist 12; Sen. J. King, Dist 18; Sen. Blaisdell, Dist 10; Sen. Russman, Dist 19; Public Institutions, Health and Human Services)

LATE SESSION

Senator Barnes moved that the business of the day being completed, that the Senate now adjourn until Thursday, April 10, 1997 at 10 a.m.

Adopted.

Adjournment.

April 10, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

An office holder whose principles are determined by politics deserves to be feared - but that's all. An office holder whose politics are determined by principles deserves to be heard - but with caution. An office holder whose votes are based on what is right, independent of all other considerations, deserves to be admired, followed and re-elected. So avoid the trap of shallowness that says, "I support your idea, but politically I can't vote for it." Nor should you settle for the imaginary ideological purity of your party's position that says, "This is our view of government and we cannot deviate from it." But rather, if you wish to be worthy of your office, just do what you know is right, regardless of any other consideration. If you do that, I'll follow you anywhere! Let us pray:

Great God of integrity, courage and vision, overwhelm these senators with an irresistible compulsion to flee from the hollow idol of political party purity and the seductive formaldehyde of public opinion. Rather let each one of these twenty-four know what is right and know how to do it, and then to go and do it. Amen

Senator Squires led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Senator K. Wheeler is excused for the day.

COMMITTEE REPORTS

HB 324, relative to the qualifications of bank examiners. Banks Committee. Vote: 7-0. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: House Bill 324 will allow bank examiners to obtain loans for personal, household or family purposes. Bank examiners will have access to mortgages and personal loans on terms no more favorable than those afforded to other borrowers. The examiner's employment is disclosed to such corporation or association and they will disclose to the bank commissioner that a debt has been incurred. This is an equity bill. The current law is antiquated and severely limits the bank examiners access to credit. Everything is in full disclosure and offers adequate protection so that there will be no abuse. The Banks Committee unanimously recommends ought to pass.

Adopted.

Ordered to third reading.

SB 137, relative to the powers of the Pease development authority. Economic Development Committee. Vote: 6-0. Inexpedient to legislate, Senator Johnson for the committee.

SENATOR JOHNSON: Senate Bill 137 clarifies certain powers of the Pease Development Authority and establishes an oversight committee to report on the activities of the authority. Given the negotiations between the PDA, the city of Portsmouth and Governor Shaheen's office, Senator Cohen, the bill's prime sponsor, requested the hearing on this bill be recessed. Eventually, upon the second request of Senator Cohen, the committee voted the bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 187-FN-A, relative to groundwater monitoring for pesticides. Environment Committee. Vote: 7-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: House Bill 187 was the recommendation of the pesticide product registration study committee that met last summer. It satisfies federal requirements in that it allows the state to develop a management plan for the five primary used pesticides such as corn herbicides which have the potential to leach into the groundwater. Without such a plan in place, the state will completely lose its ability to use these pesticides. There currently are not viable substitutes to these herbicides on the market, so their loss would have a significant negative impact on the farmers in this state. The federal plan is surprisingly flexible in that it allows each state to develop a plan best suited to its needs. A component to New Hampshire's management plan, proposes to monitor groundwater contained in private wells. Currently, the state monitors approximately sixteen hundred wells, and while there have been at least two minor detections of these pesticides in public wells, there is a greater concern that there could be higher concentrations in private wells near or where the pesticides have been applied. This plan would grant the state the financial means to test these wells in an effort to ward off any problems. Funding for this program is to come from the special Control Fund, a non lapsing fund established in RSA 430:34, several years ago. The fund shall be supported by the fees collected from applicants who register as commercial or private pesticide applicators. The Environment Committee unanimously recommends this bill as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 297, relative to the cutting of vegetation by utilities on private property. Environment Committee. Vote: 7-0. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: Presently, if a landowner requests that vegetation be cut rather than sprayed with herbicide, the landowner must pay for any additional costs. This is kind of in conjunction with the bill that we just heard. This bill requires the approval of the PUC before a utility may charge a landowner for cutting the vegetation as an alternative. Our costs show that the two types are essentially identical in terms of costs. There was no opposition to this bill in the hearing. We urge your support of ought to pass.

Adopted.

Ordered to third reading.

HB 737-FN-L, establishing a committee to study the New Hampshire retirement system relative to redefining earnable compensation. Insurance Committee. Vote: 6-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-0974s

10/01

Amendment to HB 737-FN-LOCAL

Amend paragraph I of section 3 of the bill by replacing it with the following:

I. The committee shall consist of 6 members, as follows:

(a) Three members of the house of representatives, 2 of whom shall be from the house executive departments and administration committee, appointed by the speaker of the house.

Three members of the senate, appointed by the president of the senate.

SENATOR FRASER: Mr. President, this bill establishes a committee to study the New Hampshire Retirement System relative to redefining earnable compensation. There is a perceived problem in the way some individuals use their overtime and sick time in the computation of retirement benefits. This committee would be established to seek a remedy that would not in any way be detrimental to the employees. We urge its adoption.

Amendment adopted.

Ordered to third reading.

HB 769-FN, relative to unemployment compensation. Insurance Committee. Vote: 7-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAÏS: House Bill 769, this bill requires the Department of Unemployment Security to withhold and deduct unemployment compensation otherwise payable in an amount consistent with an individual's receipt of an over issuance of food stamps coupons. This method of collecting money for the over issuance is a requirement of the federal government. The bill retroactively changes the RSA relative to the administrative contributions to comply with federal requirements. The committee recommends this bill as ought to pass.

SENATOR HOLLINGWORTH: During the committee's hearing on this bill, I was concerned because the bill didn't talk about the overage being based on fraud or client error. So I was concerned that we would be going after withholding unemployment on someone who was receiving food stamps who received them because of error in the agency. Since that time, I have been able to look at the federal regulations, and it says that clearly, that it will not be allowed to take money from a recipient of food stamps if it is an error from the agency. So that relieved that concern. It also stated that they can only receive ten dollars a month or ten percent of the compensation, which, I felt, was certainly fair; therefore, my concerns on this issue have been relieved because Health and Human Services stated when they made the rules that they would comply with the federal requirements on this. So I feel that while it seems that we are going after a small piece of the errors that happen with state agencies and federal agencies, and it seems to be triggered at just welfare recipients and not some of the other people who certainly make much more money and also take much more from the government. I am at ease with this piece of legislation, and now and I would hope that you would support the committee's motion of ought to pass.

Adopted.

Ordered to third reading.

HB 189, excluding rooms and rental units leased or subleased from charitable organizations under a transitional housing program from the definition of "tenancy" for the purposes of landlord/tenant laws. Public Affairs Committee. Vote: 5-0. Inexpedient to legislate, Senator Barnes for the committee.

SENATOR BARNES: House Bill 189, excluding rooms and rental units leased or subleased from charitable organizations under a transitional housing program from the definition of "tenancy" for the purposes of the landlord/tenant laws. Under this bill a person in a transitional housing setting who violates the terms of the self-help or lifestyle change program in which they are enrolled can be evicted from their room or rental unit more immediately than provided under tenant landlord code. No

one testified in favor of HB 189. Opponents of HB 189 were concerned that HB 189 removes the safeguard of due process for both the landlord and the tenant as prescribed under the current landlord tenant code. Intrinsic in its intent, the transitional housing aims to help the homeless become accustomed to the tenant/landlord relationship. To remove the due process requirement cuts at the landlord/tenant relationship and weakens the very foundation of the transitional housing program. In addition, opponents to this bill were concerned that HB 189 wrongly establishes two classes of renters. How can we expect our homeless population to become successful renters under transitional housing if we do not include them under laws which govern the general renting population? The genesis of the bill arose from one isolated incident in Nashua. To significantly alter a statute due to one incident does not make good sense. The current statute RSA 540:1 1-a, IV has worked well thus far. To quote testimony from Maureen Beauregard, president of Families in Transition in Manchester, "Just like any landlord, we at Families in Transition accept the possibility and responsibility of a destructive or non-paying tenant. We do not need another law to assist us in managing the small number of problem tenants in the program, the current eviction law is enough." The Public Affairs Committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 277, relative to the option to process absentee ballots before closing of polls. Public Affairs Committee. Vote: 6-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: House Bill 277, relative to the option to process absentee ballots before closing of polls. This bill changes from 2:00 p.m. to 1 p.m. the time at which city and town clerks shall begin processing previously received absentee ballots. Currently RSA 659:49 II provides that voters must be present by 2:00 p.m. to submit challenges. This bill came about as a result of processing problems encountered by the city clerk in Portsmouth. Though the original language of the bill left the time at which absentee ballots were to be processed to the discretion of the town or city clerk, the 1:00 p.m. deadline was agreed upon to allow the town and city clerks to begin processing the absentee ballots in "down time" beginning usually at approximately 1:00 p.m. No one testified in opposition to the bill. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 344-L, relative to planning board procedures on plats. Public Affairs Committee. Vote: 7-0. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: House Bill 344-L, relative to planning board differences in planning board procedures on plats. House Bill 344-Local originated from differences in planning boards' and applicants' interpretations of the terms "completed application," "acceptance of an application," and "submission of an application." According to current law as outlined in RSA 676:4(I)c, "the planning board shall approve, conditionally approve, or disapprove an application for a plat within 90 days after submission to the planning board." This bill declares that a planning board shall begin consideration of an application for a plat upon acceptance of a completed application. Clarification is necessary to standard-

ize information used by the planning board and the applicants so both parties are fully aware when the 90 day timeline begins. This bill was requested by the office of state planning. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 351-L, limiting the total of tax deferrals for the elderly and disabled on a particular property to a percentage of its equity value. Public Affairs Committee. Vote: 6-0. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: House Bill 351-L, limiting the total of tax deferrals for the elderly and disabled on a particular property to a percentage of its equity value. Current law relies on assessed value to calculate total tax deferrals on a particular property. House Bill 351 establishes a specific formula by which tax collectors can calculate equity value, which is defined as the equalized assessed value of the property reduced by any property liens. House Bill 351-L protects the interests of municipalities so deferrals will not exceed the value of the property should that property be assumed by the municipality. The New Hampshire Tax Collectors Association is in full support of HB 351. This bill passed the full House on the Consent Calendar. The Public Affairs Committee recommends unanimously, this bill ought to pass.

Adopted.

Ordered to third reading.

HB 380-L, relative to the sale of town-owned property. Public Affairs Committee. Vote: 6-0.

Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: House Bill 380-L, relative to the sale of town-owned property. Currently the governing body of towns of ten thousand or more inhabitants has the ability to sell only "town-owned land." HB 380 allows the governing body of towns with ten thousand or more inhabitants to sell town buildings after a public hearing process. This bill arose out of a situation in Salem in which the town of Salem owned a mobile home but did not own the land on which the mobile home was located. Because under current statute only allows for the transfer of land, the governing body could not dispose of the mobile home. HB 380 simply adds the term "buildings" to the current statute to allow a town's governing body to dispose of "town owned land, buildings, or both" after a public hearing process. HB 380-L will streamline town meetings for larger towns. No one opposed the bill at the hearing. The Public Affairs Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Blaisdell moved to have **SB 9**, relative to wagers at racetracks, taken off the table.

Adopted.

SB 9, relative to wagers at racetracks.

Senator Johnson moved inexpedient to legislate.

Adopted.

SB 9 is inexpedient to legislate.

TAKEN OFF THE TABLE

Senator Fraser moved to have **SB 113**, establishing a committee to study health care issues related to individuals who are underinsured or without insurance, taken off the table.

Adopted.

SB 113, establishing a committee to study health care issues related to individuals who are underinsured or without insurance. Ought to pass.

SENATOR FRASER: Mr. President, initially, we put this bill on the table with the understanding that there may be another bill with the same subject. That hasn't happened, I now report on behalf of the committee on SB 113 establishes a committee to study under insurance in the individual insurance market. The individual insurance market in New Hampshire is quite costly, matter of fact, it causes many people to go without insurance. Hopefully, this committee will be able to uncover some solutions to the problems of the under insured and the uninsured. The committee unanimously recommends that this bill be ought to pass.

SENATOR PIGNATELLI: Mr. President and members of the Senate, as the prime sponsor of SB 113, I introduced this bill because several of my constituents had called me before our session started and they had major problems with being under insured and they were not able to afford insurance if they could get it. Although my area of expertise is not health insurance, and I did not want to file a bill that perhaps would have given them a quick fix, but would have impacted other health insurance problems further down the road, I thought that a study committee was a proper place to put this and then we can get some experts in the field of health care to study this issue with us and if we need legislation to address this issue, we can do it next year. Thank you very much. I am very happy to hope that this bill will pass unanimously. Thank you.

Adopted.**Ordered to third reading.****TAKEN OFF THE TABLE**

Senator D. Wheeler moved to have **SB 61**, relative to the payment rate for medical transporters, taken off the table.

Adopted.

SB 61, relative to the payment rate for medical transporters. Ought to pass.

SUBSTITUTE MOTION

Senator Larsen moved to substitute rerefer for ought to pass.

SENATOR D. WHEELER: I rise in opposition to the motion of rerefer. The committee was kind of split on this bill, and since the bill has been put on the table, we have received a letter from commissioner Morton from the Department of Health and Human Services that I would like to read into the record, that he assures us that he will raise the amount of reimbursement to 15 cents. I would like to read that into the record so that those assurances will be recorded. In part, he says, "The rational for reimbursing recipients for their transportation costs is to insure that the incremental operating costs of driving to a medical facility or a provider are not a barrier to the access to health care." The program is not intended to be an income supplement. Consequently, reimbursement is calculated to cover the average cost of operating a vehicle in this

state. The American Automobile Association for Northern New England reported on April 2, 1997 that the average vehicle operating costs, including gasoline, maintenance, oil and tires, increased to 10.8 cents per mile in 1997. Fuel costs were based on an average price of \$1.34 per gallon. It would appear from these figures that a reimbursement rate is consistent with the average cost of vehicle operation to recipients. During the hearing on SB 61 a concern was expressed about an aspect of our transportation reimbursement policy, apart from the reimbursement rate, specifically, a limitation on the reimbursement for more than one trip per day. While we felt that it was important for recipients to plan their schedules and reduce unnecessary travel, we recognize that the policy, in some cases, may have a negative impact on our recipients and run counter to our objectives to assure access to health care for all. Consequently, we promptly removed that limitation and now recipients can be reimbursed for multiple trips per day without having to receive special authorization. My purpose in communicating with you is to let you know that we have undertaken another review of our experience with transportation reimbursement costs. Our feeling is, that we probably can afford an increase in the next biennium within funds likely to be available to us. In lieu of the passage of the measure before you, the department will commit to an increase to 15 cents per mile in the receipt-reimbursement rates from July 1, 1997 and this is signed by Richard Chevrefils.

SENATOR LARSEN: I, too, received a letter from the commissioner. We did hear from the commissioner that he intended to increase the rate to 15 cents, assuming that the budgetary amounts go through. In moving to rerefer, however, I believe that it is important for this legislature, for this Senate, to maintain its oversight of this issue. We are not talking about average families here. If we were just talking about average car costs, perhaps this would make sense to say that this number is right for all time or at least for the next year, but we are talking about families who are stressed with medical problems. We are talking about families who are stressed with severely handicapped children. We are talking about families who cannot find volunteers to drive their children because the distances are long and the vehicles are not adequately equipped to handle the variety of handicapped wheel chairs that young children and young families find themselves buying. The vans provided by volunteers who are going to get the 25 cents are not there to transport these special needs children. So we are not talking average families. We need to keep an eye on this. I am not asking for the commissioner to increase the rate necessarily this year, but I do believe that the motion to rerefer is not a wild and fanciful notion, it is the notion that we keep a little oversight on this and that we keep a handle on this, legislatively. We cannot continue to turn all of these issues over to the department which is large enough to not see some of the problems at times. I got calls last night, I imagine some of you did, from families who are concerned about this rate, from families who are struggling with heavy vans that use more gas and oil than the average van, and they can not call on a volunteer who might be reimbursed at 25 cents. These families are watching this vote. These families need your help. The motion to rerefer does not go against the commissioner's magnanimous motion to increase it to 15 cents, it is just me keeping a legislative handle that we need to keep oversight on this in the next year. I urge you to vote yes on rereferral.

SENATOR D. WHEELER: Regarding these vans that you are talking about, isn't it true that during testimony, that we heard that specially modified vehicles, (i.e.) wheel chair vans and very low miles per gallon vehicles are paid at the higher rate?

SENATOR LARSEN: No, that is not true. What we heard was, if the family was savvy enough to go to the department and complain that the 11 cents a mile was not enough, then that family on a case by case basis, got 25 cents. But they had to be knowledgeable about this. They had to be good advocates. Some of these families are so stressed that they don't know to go be advocates for themselves. If their rates go to 11 cents, the check comes down in a lower amount than they expected, they don't know that they can use this avenue of administrative appeal.

SENATOR D. WHEELER: I assume that you are going to tell them though?

SENATOR LARSEN: I have no contact with every family in this state. The commissioner does, and I think that we ought to keep an eye on this issue.

SENATOR BLAISDELL: Senator Larsen, I believe that starting next week, Senate Finance is going to be listening to all of the department heads and certainly when 50 percent of the budget in this state is done by Health and Human Services, certainly we are going to be looking, I am sure, the rest of the Senate Finance Committee, will be looking at this budget, why couldn't this be in that area? Why couldn't we include that in the budget itself rather than have to rerefer it? Let's bring it down into the budget process and have a line-item for that particular type of thing?

SENATOR LARSEN: It can be done in the budget. I know that you will keep an eye on it in the budget. I believe that in rereferring, we keep legislative prerogatives oversight on this issue. That there is some concern that in the past year, money was diverted from this account to pay for other things within the department. Those families don't need that money diverted. If we keep this as a rereferred bill, we will be able to keep some amount of administrative oversight through retaining our legislative prerogatives.

SENATOR BLAISDELL: Would you believe, Senator, that we wouldn't be losing oversight on this particular item if we made it a line item in the budget itself? I mean that can be done.

SENATOR LARSEN: Yes, but the budget is done when we approve it, and we live with whatever is approved at that time.

SENATOR BLAISDELL: Thank you.

SENATOR MCCARLEY: Thank you, I think that we learned last week, in terms of rereferral verses inexpedient to legislate, rules, that this would basically have this bill not up for consideration next year, if it isn't rereferred. One of the answers that we could not get as a part of this testimony, was the impact of the differential between 25 cents for volunteers versus, at that time, 11 cents for families. I think that rereferring this would give us the chance to ask the department to track those numbers more closely, because they couldn't give them to us, leave the language in this bill open to look at next year. I think that the rereferral makes a lot of sense based on the lack of knowledge that we were able to get on the testimony. I would encourage that you consider the rereferral as well. Thank you.

SENATOR SQUIRES: I wish to make two comments, Mr. President. I think that the rate of 15 cents is probably not adequate. The explanation that the commissioner gave is that an average, well if all of these people are above the average, then it is pointless; however, in my own

view, it should be somewhere in the neighborhood of 18 cents. But I think that the rereferral process is not something that I can support. In thinking about the timeline, it would have to come back next January, February or March, and by that time, the biennium is well advanced and I think that we can express ourselves and keep the pressure on without trying to get that far into the department's working. I would support the idea I am hearing of making a particular line item. There is money there, I think, and we should encourage the commissioner certainly to hold at the 15 and, hopefully, push him up to 18.

A roll call was requested by Senator Larsen.

Seconded by Senator Pignatelli.

The following Senators voted Yes: McCarley, Whipple, Blaisdell, Pignatelli, Larsen, J. King, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

Yeas: 8 - Nays: 15

Substitute motion of rerefer failed.

Senator D. Wheeler moved inexpedient to legislate.

Adopted.

SB 61 is inexpedient to legislate.

TAKEN OFF THE TABLE

Senator Barnes moved to have **CACR 22, RELATING TO: changing the minimum age requirement for state senator from 30 to 25. PROVIDING THAT: persons at least 25 years of age shall be eligible to be elected to the state senate, taken off the table.**

Adopted.

CACR 22, RELATING TO: changing the minimum age requirement for state senator from 30 to 25. PROVIDING THAT: persons at least 25 years of age shall be eligible to be elected to the state senate. Ought to pass.

SENATOR RUSSMAN: This important Concurrent Resolution gives the people of our state the opportunity to vote on the important question of whether or not to lower the age requirement to be a state senator from 30 to 25. The committee that heard this bill, the Internal Affairs Committee, recommends this bill as ought to pass.

SENATOR BARNES: Very briefly, I would just like to say that the Internal Affairs Committee on a 7 to 0 vote, we had no one, I repeat no one, in opposition to this bill come before the committee. I would appreciate your support of ought to pass and support the Internal Affairs's 7 to 0 vote.

SENATOR D. WHEELER: I too will keep my comments brief. I rise in opposition to CACR 22. I believe that it has been tradition and a wise tradition, that the Senate, the upper chamber, have a higher age requirement for office than the lower chamber. I believe that there are only twenty-four of us and that we are the upper chamber and that it is important that senators have had a little more of life's experience. That they have paid a mortgage for a while, that they have paid taxes for a while and that they have raised kids for a while. I know, personally, that

I have changed my view on some issues because of life's experiences. At one time, I thought that loser pays all in civil cases was a great idea, until, as you probably know, by the paper a year ago or two years ago, I was forced into litigation with a Fortune 500 company. A small guy like me could never put his house on the line and face loser pays all with a Fortune 500 company if that legislation were to pass. So I think that there is value in life's experiences. I would urge the senators to vote no on CACR 22.

SENATOR PIGNATELLI: Senator Wheeler, you mentioned that you thought that the age to run for state senate should be higher than for the House of Representatives. Even if this CACR goes to the people and passes, will we still have to be older to serve in this body than in the House of Representatives?

SENATOR D. WHEELER: Yes.

SENATOR PIGNATELLI: Thank you.

SENATOR GORDON: I have been torn on this bill because I think that there is some merit to what Senator Wheeler had to say. Certainly, I think that age brings some experience, but I, like the other senators who sit on the Internal Affairs Committee and listened to the testimony. There was no one in opposition. I think that the most irrelevant two points that I would make are 1) This is a CACR and it goes to the people and lets the people decide who they want to elect as their representative. We are not making that decision today, we are giving the people in New Hampshire the opportunity to make that decision. 2) Being a little bit familiar with the New Hampshire Constitution, I know that things have changed since the New Hampshire Constitution was written. When the New Hampshire Constitution was written, and they designated that the members in the chamber would be thirty-five years old, they also decided at the very same time that women should not be able to vote. Times change. Certainly, we all change too. Sometimes our judgment changes. One of the things that perhaps has happened in our society, is that perhaps because of the way that our society is structured today, we become more mature at an earlier age. I think that no one is requiring people to be twenty-five years old and be in the Senate. What we are doing is we are giving the people in New Hampshire the opportunity to elect people who are twenty-five years old if they think that is the proper thing to do. I guess that I don't see anything wrong with that.

SENATOR RUBENS: Mr. President, I rise in support of Senator Wheeler's statements. Reflecting on my own life experience, one becomes seasoned after a period of time. I am reflecting on myself in my 20's, I was enthusiastic, I was out to change and improve the world as I am now; however, I have acquired something called "judgment," which I think is the most significant factor that is required in this body in sometimes making very complicated decisions for which there is no apparent easy answer. You do not acquire that "judgment factor" instantaneously, certainly upon a year or two or three upon graduating from college, if you decide to go to college. I would urge not sending this to the voters for consideration. Both the founders of the state and the founders of this country, have wisely determined the judgment, and I think for that reason, is the required factor of the so-called upper body.

SENATOR RUSSMAN: We are all talking about life's experiences. I think that I can see one. It is time to look back. At twenty-five, I was representing people for murder and that was a pretty heavy burden and

matures one rather quickly. I also had the experience of losing my two best friends because of the Vietnam War. I think that if we are in the position to send our people overseas and put them in harm's way, those types of things do bring a certain maturity and perhaps a different view point that may be better than what we have at an older age at times. So I certainly rise in support of giving the opportunity for the people of New Hampshire to vote on this important issue.

SENATOR HOLLINGWORTH: Senator Russman, I know that as a lawyer you are often familiar with Latin, and since we know how late in life... there is no age limit as to how old we can be when we serve. I was wondering if you happen to know where the Latin word senator came from?

SENATOR RUSSMAN: I believe that it was from the Greek time. Very early, prior to the Roman era.

SENATOR HOLLINGWORTH: Would you believe that "senator" means "senior" and is also a part of "senile?"

SENATOR RUSSMAN: I am beginning to believe that more every day, I hate to say it, especially lately. I assume that wasn't directed at me?

SENATOR FRANCOEUR: Senator Russman, my question for you is that if we don't believe that life's experiences promote a lot of what I think this body brings here today, why should we not move the age to 18 and why stop at twenty-five?

SENATOR RUSSMAN: Well I think, I suppose that arguments can be made either way for that, frankly, but at the same time, I think, that there is some measure to be made as far as wisdom and educational backgrounds and experiences that people may have in life. But certainly twenty-five is not an age that puts someone at lack of wisdom by any means. I think that just the balance of having people of different ages in this body, does something positive for it. It makes it a better place, rather than have everybody, let's say, over 50 for example, just to serve in this body. I think that you have to agree with that. I don't think that we necessarily have to change it to 18, but certainly age twenty-five which is on the bill today, I think, is appropriate.

SENATOR COHEN: Senator Rubens talked about the judgment of the individual. I have to think that we would agree that we would trust the judgment of the people who are making the decision in regard to who to elect. I think that this bill certainly allows the electorate to make the judgment themselves. If they want to elect someone who is twenty-five or eighty-five or ninety-five for that matter. Trust the judgment of the people on this one.

SENATOR PATENAUDE: Senator Cohen, how come you didn't feel that way about biennial sessions?

SENATOR COHEN: That is a separate issue entirely. Thank you.

A 3/5 vote required.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Barnes.

The following Senators voted Yes: F. King, Gordon, Fraser, McCarley, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Barnes, J. King, Russman, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Johnson, Rubens, Patenaude, D. Wheeler, Francoeur, Podles, Danais.

Yeas: 16 - Nays: 7

Adopted by the necessary 3/5 vote.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that we be in recess for House messages, introduction and referral of bills and when we adjourn we adjourn to Thursday, April 24, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

CACR 22, RELATING TO: changing the minimum age requirement for state senator from 30 to 25. **PROVIDING THAT:** persons at least 25 years of age shall be eligible to be elected to the state senate.

Question is on ordering to third reading.

A 3/5 vote is necessary.

A division vote is requested.

Yeas: 15 - Nays: 6

Adopted.

Ordered to third reading.

ANNOUNCEMENTS

REPORT OF COMMITTEE ON ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 120, amending certain license fees and making various technical changes to the fish and game laws.

HB 123, relative to reduced speed limits in school zones during school openings and closings.

HB 150, relative to the unlawful alteration of temporary motor vehicle registration plates.

HB 219, repealing provisions relative to literacy instruction and the committee to study literacy and remedial instruction.

HB 222, relative to pooled risk management programs.

HB 309, increasing the time for a local legislative body to act on a proposed interim zoning regulation.

HB 321, correcting a reference to the American Podiatry Association.

HB 331, adopting the uniform foreign depositions law.

HB 678, relative to the expansion of veterans' home services.

Senator Barnes moved adoption.

Adopted.

Third Reading and Final Passage

SB 113, establishing a committee to study health care issues related to individuals who are underinsured or without insurance

HB 277, relative to the option to process absentee ballots before closing of polls.

HB 297, relative to the cutting of vegetation by utilities on private property.

HB 324, relative to the qualifications of bank examiners.

HB 344-L, relative to planning board procedures on plats.

HB 351-L, limiting the total of tax deferrals for the elderly and disabled on a particular property to a percentage of its equity value.

HB 380-L, relative to the sale of town-owned property.

HB 737-FN-L, establishing a committee to study the New Hampshire retirement system relative to redefining earnable compensation.

HB 769-FN, relative to unemployment compensation.

Senator J. King moved that the Senate adjourn until Thursday, April 24, 1997 at 10:00 a.m.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 50-FN-A-LOCAL, increasing aid for kindergarten programs, and establishing a program for the construction of public kindergarten facilities and making an appropriation therefor. (Rep. Burling, Sull 1; Rep. A. Torr, Straf 12)

HB 51-FN-A, extending the temporary tax rates of the meals and rooms tax, communications services tax, and real estate transfer tax through the biennium ending June 30, 1999.

HB 52, authorizing the assignment of superior court judges to hear cases in the district court.

HB 151-FN-L, establishing comprehensive medical, physical, and psychological standards for law enforcement officers.

HB 196-FN, providing for the regulation of horticultural growing media.

HB 197-FN, relative to the regulation of wetland scientists.

HB 225-FN, providing for the establishment of a needle exchange pilot program in one community in New Hampshire.

HB 246, making technical corrections to the business profits tax, interest and dividends tax, and the legacies and successions tax and setting the biennial rate of the medicaid enhancement tax at 6 percent.

HB 268-FN, relative to the Pease development authority.

HB 402, relative to the use of revenues of the fish and game department.

HB 413, relative to the sale or transfer of airports by the state.

HB 440-FN, changing the legislative mileage formula.

HB 457-FN, requiring all state agencies, departments, and commissions in all 3 branches of government to have a presence on the New Hampshire automated information system by January 1, 1998, and designating the state library as the official repository of state government information.

HB 459-FN, establishing a youth operator's license for persons under 18 years of age.

HB 488-FN, relative to involuntary admission to the state hospital on an emergency basis.

HB 525-L, relative to Braille instruction for functionally blind pupils.

HB 571-FN-A, relative to full funding of services to developmentally disabled persons.

HB 572-FN, relative to town, city, and county treasurers and to the state treasurer.

HB 582-FN, relative to medicaid rate setting.

HB 588-FN, relative to certification of operators of solid waste plants, water treatment plants, and wastewater treatment plants, and adding late renewal fees.

HB 592-FN-A-L, establishing an advisory council on brain and spinal cord injuries.

HB 598-FN, relative to liens on aircraft for nonpayment of aircraft registration fees.

HB 599-FN, relative to youth access to tobacco products.

HB 646-FN-A, relative to eligibility for child day care services for persons receiving public assistance.

HB 658-FN-A, ensuring that the division of safety services, department of safety receives its ½ share of unrefunded tolls for boat motor fuels as required by law, and establishing a special fund therefor.

HB 674, relative to dam registration and filing fees. (Rep. Dickinson, Carr 2; Rep. Laflam, Belk 2; Rep. Merritt, Straf 8; Rep. Royce, Ches 9)

HB 677-FN, increasing the wetlands excavating and dredging permit fee for major and minor projects.

HB 724-FN, allowing the office of reimbursements in the department of health and human services to set rates for the multiple DWI offender intervention detention center program.

HB 755-FN, relative to OHRVs and increasing certain OHRV registration fees

HB 765-FN, establishing an osteoporosis prevention, education, and treatment program.

HB 771-FN-L, relative to hazardous waste operator permit application costs, adding an exemption to the hazardous waste cleanup fund fee, increasing grant awards made pursuant to the used oil collection center program, and relative to the automotive oil fee.

HB 781-FN, relative to lucky 7 tickets and bingo games and requiring manufacturers and distributors of bingo supplies to be licensed.

HB 785-FN, relative to alcohol and other drug abuse professionals.

HJR 6, authorizing the joint legislative historical committee to acquire and cause to be displayed a portrait of suffragist Marilla Marks Ricker.

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 50 - HJR 6 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 50-FN-A-LOCAL, increasing aid for kindergarten programs, and establishing a program for the construction of public kindergarten facilities and making an appropriation therefor. (Rep. Burling, Sull 1; Rep. A. Torr, Straf 12; Education)

HB 51-FN-A, extending the temporary tax rates of the meals and rooms tax, communications services tax, and real estate transfer tax through the biennium ending June 30, 1999. (Rep. Burling, Sull 1; Ways and Means)

HB 52, authorizing the assignment of superior court judges to hear cases in the district court. (Rep. A. Merrill, Straf 8; Rep. J. McCarthy, Rock 24; Judiciary)

HB 151-FN-LOCAL, establishing comprehensive medical, physical, and psychological standards for law enforcement officers. (Rep. Pepino, Hills 40; Rep. Belanger, Rock 26; Rep. David Welch, Rock 18; Rep. Chase, Graf 6; Executive Departments and Administration)

HB 196-FN, providing for the regulation of horticultural growing media. (Rep. Owen, Merr 6; Environment)

HB 197-FN, relative to the regulation of wetland scientists. (Rep. Dyer, Hills 8; Rep. M. Brown, Merr 10; Executive Departments and Administration)

HB 225-FN, providing for the establishment of a needle exchange pilot program in one community in New Hampshire. (Rep. C. Kane, Rock 32; Rep. Copenhaver, Graf 10; Rep. O'Keefe, Rock 21; Rep. Sargent, Hills 3; Rep. Amidon, Hills 9; Sen. Blaisdell, Dist 10; Sen. Cohen, Dist 24; Sen. Hollingworth, Dist 23; Public Institutions, Health and Human Services)

HB 246, making technical corrections to the business profits tax, interest and dividends tax, and the legacies and successions tax and setting the biennial rate of the medicaid enhancement tax at 6 percent. (Rep. Weyler, Rock 18; Ways and Means)

HB 268-FN, relative to the Pease development authority. (Rep. Syracuse, Rock 33; Rep. Hunt, Chest 10; Rep. M. Fuller Clark, Rock 36; Sen. Fraser, Dist 4; Sen. Cohen, Dist 24; Economic Development)

HB 402, relative to the use of revenues of the fish and game department. (Rep. Pfaff, Merr 11; Wildlife and Recreation)

HB 413, relative to the sale or transfer of airports by the state. (Rep. Weyler, Rock 18; Transportation)

HB 440-FN, changing the legislative mileage formula. (Rep. Jacobson, Merr 2; Rep. Arnold, Hills 20; Internal Affairs)

HB 457-FN, requiring all state agencies, departments, and commissions in all 3 branches of government to have a presence on the New Hampshire automated information system by January 1, 1998, and designating the state library as the official repository of state government information. (Rep. Holley, Hills 28; Rep. Lamach, Merr 3; Rep. Drabinowicz, Hills 36; Rep. Hunt, Ches 10; Rep. Hansen, Hills 2; Sen. Larsen, Dist 15; Internal Affairs)

HB 459-FN, establishing a youth operator's license for persons under 18 years of age. (Rep. L'Heureux, Hills 18; Rep. Christie, Rock 22; Rep. P. Katsakiores, Rock 13; Rep. M. Fuller Clark, Rock 36; Rep. Gleason, Rock 13; Sen. Roberge, Dist 9; Sen. Johnson, Dist 3; Sen. Pignatelli, Dist 13; Sen. K. Wheeler, Dist 21; Sen. Russman, Dist 19; Transportation)

HB 488-FN, relative to involuntary admission to the state hospital on an emergency basis. (Rep. Manning, Ches 9; Rep. Sargent, Hills 3; Rep. R. Foster, Carr 10; Rep. Chabot, Hills 48; Rep. C. Moore, Merr 19; Sen. Gordon, Dist 2; Sen. K. Wheeler, Dist 21; Public Institutions, Health and Human Services)

HB 525-LOCAL, relative to Braille instruction for functionally blind pupils. (Rep. Gagnon, Hills 48; Rep. S. Holley, Hills 28; Rep. Rice, Belk 7; Rep. C. Williams, Hills 39; Rep. Rosen, Belk 7; Sen. Johnson, Dist 3; Sen. Podles, Dist 16; Sen. K. Wheeler, Dist 21; Sen. Blaisdell, Dist 10; Education)

HB 571-FN-A, relative to full funding of services to developmentally disabled persons. (Rep. Burnham, Ches 8; Rep. Wallner, Merr 24; Rep. C. Moore, Merr 19; Rep. Manning, Ches 9; Rep. Ferguson, Hills 13; Sen. Blaisdell, Dist 10; Sen. K. Wheeler, Dist 21; Sen. J. King, Dist 18; Public Institutions, Health and Human Services)

HB 572-FN, relative to town, city, and county treasurers and to the state treasurer. (Rep. Dyer, Hills 8; Executive Departments and Administration)

HB 582-FN, relative to medicaid rate setting. (Rep. Amidon, Hills 9; Rep. Sargent, Hills 3; Rep. Wallner, Merr 24; Sen. Blaisdell, Dist 10; Sen. Fraser, Dist 4; Sen. F. King, Dist 1; Insurance)

HB 588-FN, relative to certification of operators of solid waste plants, water treatment plants, and wastewater treatment plants, and adding late renewal fees. (Rep. Dickinson, Carr 2; Rep. Cooper, Carr 2; Environment)

HB 592-FN-A-LOCAL, establishing an advisory council on brain and spinal cord injuries. (Rep. Boyce, Belk 5; Sen. Hollingworth, Dist 23; Public Institutions, Health and Human Services)

HB 598-FN, relative to liens on aircraft for nonpayment of aircraft registration fees. (Rep. Weyler, Rock 18; Rep. Noyes, Rock 26; Rep. Leber, Merr 1; Rep. Dwyer, Hills 43; Rep. Milligan, Hills 18; Transportation)

HB 599-FN, relative to youth access to tobacco products. (Rep. Nordgren, Graf 10; Rep. R. Foster, Carr 10; Rep. Buckley, Hills 44; Rep. Ziegler, Belk 5; Rep. Holt, Hills 35; Sen. Cohen, Dist 24; Sen. Gordon, Dist 2; Sen. Hollingworth, Dist 23; Sen. Russman, Dist 19; Public Affairs)

HB 646-FN-A, relative to eligibility for child day care services for persons receiving public assistance. (Rep. Wallner, Merr 24; Rep. J. Brown, Straf 17; Rep. Micklon, Rock 26; Rep. Frechette, Rock 33; Rep. J. Bradley, Carr 8; Sen. Blaisdell, Dist 10; Sen. Larsen, Dist 15; Public Institutions, Health and Human Services)

HB 658-FN-A, ensuring that the division of safety services, department of safety receives its ½ share of unrefunded tolls for boat motor fuels as required by law, and establishing a special fund therefor. (Rep. Dickinson, Carr 2; Rep. M. Whalley, Merr 5; Rep. Schotanus, Sull 3; Rep. Lovett, Graf 6; Sen. Gordon, Dist 2; Sen. Johnson, Dist 3; Transportation)

HB 674, relative to dam registration and filing fees. (Rep. Dickinson, Carr 2; Rep. Laflam, Belk 2; Rep. Merritt, Straf 8; Rep. Royce, Ches 9; Environment)

HB 677-FN, increasing the wetlands excavating and dredging permit fee for major and minor projects. (Rep. Dickinson, Carr 2; Rep. Lovett, Graf 6; Rep. Merritt, Straf 8; Sen. Patenaude, Dist 7; Sen. Russman, Dist 19; Environment)

HB 724-FN, allowing the office of reimbursements in the department of health and human services to set rates for the multiple DWI offender intervention detention center program. (Rep. Christie, Rock 22; Judiciary)

HB 755-FN, relative to OHRVs and increasing certain OHRV registration fees. (Rep. M. Whalley, Merr 5; Rep. R. Johnson, Rock 1; Rep. Schotanus, Sull 3; Rep. G. Merrill, Coos 1; Sen. Gordon, Dist 2; Sen. F. King, Dist 1; Sen. Patenaude, Dist 7; Sen. Podles, Dist 16; Wildlife and Recreation)

HB 765-FN, establishing an osteoporosis prevention, education, and treatment program. (Rep. French, Merr 3; Rep. Ziegra, Belk 5; Sen. Larsen, Dist 15; Sen. Gordon, Dist 2; Sen. K. Wheeler, Dist 21; Sen. Cohen, Dist 24; Public Institutions, Health and Human Services)

HB 771-FN-LOCAL, relative to hazardous waste operator permit application costs, adding an exemption to the hazardous waste cleanup fund fee, increasing grant awards made pursuant to the used oil collection center program, and relative to the automotive oil fee. (Rep. Musler, Straf 6; Environment)

HB 781-FN, relative to lucky 7 tickets and bingo games and requiring manufacturers and distributors of bingo supplies to be licensed. (Rep. R. Kelley, Hills 18; Sen. Danaïs, Dist 20; Ways and Means)

HB 785-FN, relative to alcohol and other drug abuse professionals. (Rep. Dyer, Hills 8; Rep. Emerton, Hills 7; Sen. J. King, Dist 18; Executive Departments and Administration)

HJR 6, authorizing the joint legislative historical committee to acquire and cause to be displayed a portrait of suffragist Marilla Marks Ricker. (Rep. Cushing, Rock 22; Rep. A. Merrill, Straf 8; Rep. Keans, Straf 16; Rep. Weatherspoon, Rock 20; Rep. A. Torr, Straf 12; Sen. Hollingworth, Dist 23; Sen. McCarley, Dist 6; Sen. K. Wheeler, Dist 21; Sen. Pignatelli, Dist 13; Sen. Larsen, Dist 15; Internal Affairs)

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 105, allowing an extension of time limits upon a showing of good cause for holding an adjudicatory hearing in certain delinquency cases.

HB 251-FN-L, reclassifying a portion of North Main Street in the town of Farmington, a portion of Passaconaway Road in the town of Albany and a portion of Osgood Road/Mason Road in the town of Milford.

HB 392, changing references to the "BOCA Basic Building Code" to "BOCA National building Code" and relative to incorporating certain codes by reference.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 1-A, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 1998, and June 30, 1999.

HB 2-FN-A, relative to state fees, funds, revenues, and expenditures.

HB 25-A, making appropriations for capital improvements and establishing a committee to study federal buildings and patients needs relative to the veterans' home.

HB 53-FN-A, relative to electronic data submission under the meals and rooms tax.

HB 564-FN-A, increasing the cigarette tax.

HB 602-FN-A, repealing the franchise tax on electrical utilities and replacing it with a tax on electricity consumption.

HB 609-FN-LOCAL, enacting the Uniform Interstate Family Support Act (UIFSA), and relative to child support.

HB 638-FN, establishing a pilot program for the random on-site inspection and testing of certain sludge and biosolid samples.

HB 731-FN-A-LOCAL, relative to the taxation of sand, gravel, loam, and other similar substances.

HB 744-FN, relative to administrative fines for violations of safety regulations regarding water pollution and waste disposal, authorizing the attorney general to enjoin any youth camp, public swimming pool, or spa operating without approval, and relative to the legal status of local river management advisory committees.

HB 810-FN-A, appropriating certain funds from the highway surplus account to the department of transportation.

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered HB 1-A - HB 810-FN-A shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 1-A, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 1998, and June 30, 1999. (Rep. Kurk, Hills 5; Finance)

HB 2-FN-A, relative to state fees, funds, revenues, and expenditures. (Rep. Kurk, Hills 5; Finance)

HB 25-A, making appropriations for capital improvements and establishing a committee to study federal buildings and patients needs relative to the veterans' home. (Rep. G. Chandler, Carr 1; Capital Budget)

HB 53-FN-A, relative to electronic data submission under the meals and rooms tax. (Rep. Burling, Sull 1; Rep. Avery, Ches 8; Ways and Means)

HB 564-FN-A, increasing the cigarette tax. (Rep. C. Brown, Graf 14; Rep. Wheeler, Hills 7; Rep. Flint, Sull 4; Rep. Buckley, Hills 44; Finance)

HB 602-FN-A, repealing the franchise tax on electrical utilities and replacing it with a tax on electricity consumption. (Rep. Below, Graf 13; Rep. MacGillivray, Hills 21; Ways and Means)

HB 609-FN-LOCAL, enacting the Uniform Interstate Family Support Act (UIFSA), and relative to child support. (Rep. Clay, Hills 4; Rep. Woods, Rock 25; Sen. Larsen, Dist 15; Sen. Russman, Dist 19; Interstate Cooperation)

HB 638-FN, establishing a pilot program for the random on-site inspection and testing of certain sludge and biosolid samples. (Rep. Owen, Merr 6; Sen. Cohen, Dist 24; Sen. Pignatelli, Dist 13; Environment)

HB 731-FN-A-LOCAL, relative to the taxation of sand, gravel, loam, and other similar substances. (Rep. Wheeler, Hills 7; Rep. G. Chandler, Carr 1; Rep. K. Rogers, Merr 22; Sen. Blaisdell, Dist 10; Sen. Johnson, Dist 3; Sen. Fraser, Dist 4; Ways and Means)

HB 744-FN, relative to administrative fines for violations of safety regulations regarding water pollution and waste disposal, authorizing the attorney general to enjoin any youth camp, public swimming pool, or spa operating without approval, and relative to the legal status of local river management advisory committees. (Rep. Dickinson, Carr 2; Environment)

HB 810-FN-A, appropriating certain funds from the highway surplus account to the department of transportation. (Rep. G. Chandler, Carr 1; Rep. Schotanus, Sull 3; Rep. LaMott, Graf 5; Rep. Pfaff, Merr 11; Rep. K. Rogers, Merr 22; Sen. Pignatelli, Dist 13; Sen. Gordon, Dist 2; Finance)

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills examined and found correctly Enrolled the following entitled House Bills and Senate Bills:

HB 105, allowing an extension of time limits upon a showing of good cause for holding an adjudicatory hearing in certain delinquency cases.

HB 114, requiring members of conservation commissions to be residents of the city or town which they represent.

HB 194, requiring any person erecting, installing, maintaining or exercising control over a mooring on Ossipee Lake to obtain a mooring permit from the division of safety services, department of safety.

HB 325, eliminating the correctional industries advisory board.

CACR 22, changing the minimum age requirement for state senator from 30 to 25 providing clause.

SB 133, relative to the task force on perinatal chemical dependency. Senator Barnes moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills examined and found correctly Enrolled the following entitled House Bills and Senate Bills:

HB 158, creating a committee to study the establishment of a New Hampshire volunteer program.

HB 163, repealing the law which requires the commissioner of health and human services to deny the application or renewal of the license of an emergency medical technician convicted of driving while intoxicated.

HB 217, relative to outdoor advertising hearings in the department of transportation.

HB 227, relative to North Hampton property taxes.

HB 228, relative to the definition of "club-veterans" under the liquor laws.

HB 313, clarifying the authority of security officers on the New Hampshire hospital campus.

HB 324, relative to the qualifications of bank examiners.

HB 341, relative to filing lucky 7 applications with the sweepstakes commission.

HB 349, repealing certain pari-mutuel laws relative to racing funds, disbursements of the funds, and records of receipts.

HB 523, relative to the appointment of guardians ad litem.

HB 585, relative to prohibiting littering, as enforced by the fish and game department.

SB 24, relative to prescriptions for certain controlled drugs.

Senator Barnes moved adoption.

Adopted.

Adjournment.

April 24, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. Susan B. Hoffman, Senate Chaplain.

Eternal God, creator of the universe, we praise You on this day that You have given us. We thank You for the precious gift of life that we enjoy. We rejoice in the promises of the earth that surround us in this time of Spring; the daffodils, the tulips, the greening of the grass, and the budding of the trees. Thank You.

As we look above the horizon into the vastness of the universe we are in awe of that which You have brought into being. In the days of the sun and breezes and the nights of Hale-Bopp and the moon and stars, we see limitless possibilities in the world.

When our gaze shifts toward that around us we appreciate the place that You have given us; this place of ocean and mountain, of fertile fields and sandy beach, of tall trees and flowering garden. Thank You.

We have gathered in this place to plan for the future of that and those given into our care. O God, give us the wisdom to be fair and consider-

ate. Help us to thoughtfully come to conclusions based on the good of all. Show us the just path that leads to joy and contentment for all Your people. We know that we have much work to do and sometimes we grow weary just thinking about it. Give us strength and perseverance to see the task completed. Grant to us the rest and energy necessary to think clearly and work diligently in all that has been given to do.

Hear us, Loving God, as we lift before You those of this body whose lives are affected by illness or grief and ask Your blessing and comfort.

O God, we know we ask for much, but we are assured that You hear our petitions and praise. In this moment of preparation, we give You thanks for the challenges of the day and Your presence in each moment. Grant unto each of us Your peace that passes all understanding. In Your holy name we come to You, we praise You, and we thank You. Amen

Senator Patenaude led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Senator Larsen is excused for the day.

TAKEN OFF THE TABLE

Senator Fraser moved to have **SB 172**, making various changes to the workers' compensation law, taken off the table.

Adopted.

SB 172, making various changes to the workers' compensation law. Question is on the committee amendment.

SENATOR FRASER: Mr. President, this bill, SB 172 adds a penalty for doing business with an unlicensed third-party administrator. This is a response to the fact that these administrators may not meet the qualifications of licensed administrators here in New Hampshire. It also accesses a civil penalty for failure to provide temporary alternative work as required by RSA 281:a, 23b. The civil penalty is being introduced to ensure that employers comply with the requirement to offer alternative work. The bill deletes the medical and rehab fee schedule and replaces it with a requirement for payment for regional value of services. The fee schedule is being replaced with a system that is better able to respond to different situations than the set fee schedule. The bill also implies that employers that reinstate employees, shall not be reimbursed under RSA 281-A:54 should the employee become injured again. This bill is a request of the Department of Labor. The committee recommends this bill as ought to pass. Mr. President, if the Senate does embrace the contents of SB 172, then I will offer a floor amendment.

Recess.

Out of recess.

Amendment adopted.

Senator Fraser offered a floor amendment.

1997-1163s

01/02

Floor Amendment to SB 172

Amend the bill by replacing section 2 with the following:

2 Civil Penalty Added. Amend RSA 281-A:23-b to read as follows:

281-A:23-b Alternative Work Opportunities. All employers with 5 or more employees shall develop temporary alternative work opportunities for injured employees. *If the employee fails to accept temporary*

alternative work, the employer or the employer's insurance carrier may petition the commissioner pursuant to RSA 281-A:48, to reduce or end compensation. The commissioner shall adopt rules under RSA 541-A relative to the administration of this section.

AMENDED ANALYSIS

This bill:

1. Adds a penalty for doing business with an unlicensed third party administrator.

2. Deletes the medical and rehabilitation fee schedule and replaces it with a requirement for payment for reasonable value of services.

3. Declares that employers who reinstate an employee shall not be reimbursed from the fund established under RSA 281-A:54 should such employee become injured.

Changes the time frame when an appeal must be heard by the workers' compensation appeals board.

SENATOR FRASER: We have a floor amendment to offer. The original bill said that the employer must provide and must develop alternative work opportunities for injured employees. What this amendment would do, would take out the word "provide." In the amendment, if the amendment is embraced, "All employers with 5 or more employees shall develop temporary alternative work opportunities for injured employees." We would urge its adoption.

SENATOR FRANCOEUR: Senator Fraser, could you just explain to me that if I have 10 employees, but I don't provide temporary work, would the employee get reduced compensation or end compensation under this amendment?

SENATOR FRASER: Would you ask the question again, Senator?

SENATOR FRANCOEUR: Okay, with your amendment, if the employer has nine or ten employees, does not provide light duty work, would the employee, if the Insurance Commission, insurance carrier, asked to request for reduced benefits for not accepting light duty work, would anything happen to the employer?

SENATOR FRASER: The employer would be the one who would petition the Labor Department to ask for reduced benefits if the employee refused to accept light duty work. Is that your question?

SENATOR FRANCOEUR: Okay, so if the employer doesn't provide light duty work, nothing would happen to him?

SENATOR FRASER: Nothing would happen providing it is discretionary with the Commission of Labor. For instance, we discussed a car wash, where there wouldn't be any light duty, all that the employer would have to do is to notify the Department of Labor because there is no light duty labor available. It is discretionary with the Labor Commission.

SENATOR FRANCOEUR: Okay, but they don't have to provide the light duty work?

SENATOR FRASER: That is correct.

SENATOR FRANCOEUR: Thank you.

Floor amendment adopted.

Ordered to third reading.

Senator Francoeur in opposition to SB 172.

TAKEN OFF THE TABLE

Senator Barnes moved to have **SB 73-FN**, providing that telephone and cable communications poles and lines be subject to the property tax, taken off the table.

Adopted.

SB 73-FN, providing that telephone and cable communications poles and lines be subject to the property tax.

Senator Gordon moved to recommit.

Adopted.

SB 73 is recommitted to the Ways and Means Committee.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills and a Resolution sent down from the Senate:

SB 20, establishing a committee to study presumptive sentencing.

SB 27, allowing municipalities to take inventories of property as often as state law allows property tax bills to be issued.

SB 48-FN, to provide an optional retirement program for certain employees of the department of regional community-technical colleges.

SB 74-FN, allowing holders of retail wine and combination wine and beverage licenses to sell fortified wines.

SB 86-FN, requiring the division of motor vehicles to report those in default to a consumer reporting agency.

SB 128, increasing the membership of the university system study committee.

SB 175, establishing a committee on the feasibility of installing rumble strips before toll booths.

CACR 12, returning annual legislative sessions to biennial legislative sessions. Providing that the general court shall meet biennially.

HOUSE MESSAGE

The House of Representatives has Re-referred to Committee the following entitled Senate Bills sent down from the Senate:

SB 10, relative to funds for prearranged funerals or burial plans.

SB 26, preventing recovery by a nonsupporting parent in a wrongful death claim or action on behalf of the nonsupported child until child support arrearages are paid in full.

SB 56-FN-L, establishing a method for repurchase of tax-deeded property by the former owner of the property and limiting the recovery by municipalities of proceeds from sales of tax-deeded property.

SB 158-FN-A, relative to the funding of beach erosion control projects along the south side of the Hampton Harbor Inlet.

SB 161-FN-A, relative to the Seacoast Science Center and making an appropriation therefor.

SB 187, relative to the penalties for certain court defaults.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 343-L, relative to authority by governmental entities over driveways and other accesses to public ways.

HB 539-L, relative to the tax lien process for quarterly tax bills in the city of Concord.

HB 737-FN-L, establishing a committee to study the New Hampshire retirement system relative to redefining earnable compensation.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills and a Resolution sent down from the Senate:

SB 76, limiting the liability of school districts operating facilities for skateboarding, rollerblading, or rollerskiing.

SB 81, relative to the administration of estates.

SB 87, relative to permissible agreements between beverage manufacturers and vendors and beverage wholesale distributors.

SB 103, establishing a committee to study issues relating to the licensing of child day care centers.

SB 110-L, allowing the Coos county convention to revise the compensation of the county sheriff.

SB 119, prohibiting a person convicted of any sexual offense, felony, or DWI offense from obtaining a waiver to remove the person's driver's license image from department of safety records.

SB 152, establishing a committee to study issues related to allowing the city of Manchester to adopt a 2-year budget cycle.

SB 156, establishing a committee to study issues relating to providing special education services to eligible pupils who are incarcerated in the state prison system and county correctional facilities.

SJR 1, recognizing the town of Brentwood as the county seat of Rockingham county.

COMMITTEE REPORTS

HB 215, relative to taxation of discretionary easements. Banks Committee. Vote: 6-0. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: House Bill 215 simply clarifies that New Hampshire RSA 79-C will govern those discretionary easements granted on or before August 2, 1996 and shall continue to be governed for the remainder of their term of years by New Hampshire RSA 79-A. It is a simple correction of the law that passed last year. There has been some misunderstanding of the grandfathering. The committee, unanimously recommends ought to pass. I would appreciate your support on this.

Adopted.

Ordered to third reading.

HB 216, relative to municipal budgets. Vote: 6-0. Banks Committee. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 216 is a simple bill to remedy a situation at the Department of Revenue. It corrects a problem that exists when a governing body or a budget committee, fails to make a notation on whether or not to make a recommendation on a special warrant article. This bill provides that defects or deficiencies in these notations shall not affect the legal validity of any appropriation otherwise legally made. The bill also provides relief in the event that there is a tie or when the recommendation is inadvertently left off the warrant article. It does not take away any option from the governing body. The committee was unanimous in recommending ought to pass.

Adopted.

Ordered to third reading.

HB 370, updating and making technical corrections in certain banking laws. Banks Committee. Vote: 3-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1099s

09/02

Amendment to HB 370

Amend the bill by replacing section 1 with the following:

1 Bank Holding Companies. Amend RSA 383:9-g to read as follows:

383:9-g Bank Holding Companies. The bank commissioner shall also have general supervision of [any New Hampshire bank holding company, as defined by RSA 384:44, VIII, and of any out-of-state bank holding company, as defined by RSA 384:44, X, doing business in New Hampshire] *a corporation, partnership, limited partnership, limited liability company, limited liability corporation, business trust, or any other form of business entity organized under the laws of any jurisdiction which (i) beneficially owns, controls or holds the power to vote 25 percent or more of the voting stock of any federally chartered or state-chartered bank, commercial bank, savings bank, trust company, building and loan association, savings and loan association, cooperative bank, or similar banking organization doing business in the state of New Hampshire or (ii) possesses the power to control or controls the election of a majority of the directors of any such banking organization. For purposes of this section, such a business entity shall be referred to as a bank holding company. If a bank owns or controls another bank in the same manner as a bank holding company, it shall be deemed to be a bank holding company itself.* The commissioner may require any bank holding company to furnish whichever reports the commissioner deems appropriate to the proper supervision of such bank holding company. Unless the commissioner determines otherwise, reports prepared for federal authorities may be submitted by such bank holding company in satisfaction of the requirements of this section. If such information and reports are inadequate in the commissioner's judgment for that purpose, the commissioner may examine such bank holding company and any of its subsidiaries doing business in New Hampshire. The proper charges which are incurred by reason of any such examination, including, but not limited to, examiner salaries and the benefits portion of such salaries, transportation, meals, lodging, and other associated costs, shall be paid by the bank holding company examined.

Amend the bill by replacing all after section 10 with the following:

11 Definition; Mutual Holding Company. Amend RSA 386-B:1, I to read as follows:

I. "Mutual holding company" means the corporation that *is organized to become, or* continues in [the] mutual form as, *the* majority shareholder of the subsidiary guaranty savings bank when a mutual savings bank reorganizes to achieve a holding company structure pursuant to this chapter.

12 New Section; Reorganization of Mutual Savings Bank by Merger. Amend RSA 386-B by inserting after section 2 the following new section:

386-B:2-a Reorganization of Mutual Savings Bank by Merger. Alternatively, a mutual savings bank may reorganize into a mutual holding company structure under a plan or reorganization submitted to and approved by the bank commissioner as hereinafter provided, by taking or causing to be taken the following actions:

I. Chartering a mutual holding company conforming its organization, governance and powers to those prescribed for a mutual holding company by RSA 386-B:8 in accordance with the procedures set forth in RSA 386-B:8.

II. Chartering a subsidiary guaranty savings bank in accordance with the procedures of RSA 386-B:9, except for those set forth in paragraphs I and IV of RSA 386-B:9, a majority of the stock of which will be owned by the mutual holding company. The holding company may organize and be the sole incorporator of the subsidiary guaranty savings bank, and only such persons who will serve as directors or executive officers of the subsidiary guaranty savings bank who are not serving as trustees or executive officers of the mutual savings bank at the time the application is filed will be required to submit personal and financial information to the bank commissioner for review pursuant to applicable rules and regulations.

III. Merging the mutual savings bank and the subsidiary guaranty savings bank in accordance with the procedure of RSA 388. As part of the merger, the proprietary interest of the savings depositors in the mutual savings bank immediately before the merger shall be exchanged for identical proprietary interests in the mutual holding company.

13 New Paragraph; Chartering of Mutual Holding Company. Amend RSA 386-B:8 by inserting after paragraph V the following new paragraph:

VI. A mutual holding company may be organized by a mutual savings bank to effect a reorganization pursuant to RSA 386-B:2-a by filing the proposed charter of the mutual holding company with the bank commissioner for approval as part of the plan of reorganization. The initial incorporators and trustees of the mutual holding company shall consist of the same persons who are serving as the incorporators and trustees of the mutual savings bank at the time the mutual holding company is organized. The mutual savings bank may provide funds to the mutual holding company for the purpose of enabling it to capitalize the subsidiary guaranty savings bank, to cover the expenses of organization and to provide initial working capital. If the charter is approved by the bank commissioner, the commissioner shall certify the approval on duplicate originals of the charter. The duplicate originals shall be filed in the office of the secretary of state, together with a filing fee of \$25. The secretary of state shall record one of the duplicate originals in his office and issue and return the other original to a representative of the mutual holding company. The organization of the mutual holding company shall take effect as of the date of the filing of the duplicate originals in the office of the secretary of state. The provisions of RSA 386-B:6, 7 and 10 shall be inapplicable to a mutual holding company organized pursuant to this paragraph.

14 Petition to Commissioner. Amend RSA 388:8 to read as follows:

388:8 Petition to Commissioner. Banking institutions which may be united under the preceding subdivision may apply by petition to the bank commissioner for authority to contract for union under the terms and conditions [~~therein set forth, provided the owners of 2/3 of the capital stock, if any, of the respective institutions, otherwise 2/3 of the members of the respective corporations, shall have so voted~~] *in such petition.*

15 Repeal. RSA 393:55-a, relative to the power of federal savings and loan associations to merge with certain state banking associations, is repealed.

16 Effective Date. This act shall take effect upon its passage.

SENATOR FRASER: Mr. President, HB 370 was introduced at the request of the New Hampshire Banking Department. It is largely a technical bill priorly clarifying existing regulatory authority and updating certain provisions within the banking statutes to reflect current practices. The bill addresses provisions of state law pertaining to bank holding companies, cost of examinations, election of directors and trustees, legal investments, petitions and power to merge and consolidate, interim banks and fidelity bond coverage. The bill also modifies the current statute pertaining to reorganization of mutual savings banks in the holding company structure. This change in state law was prompted by the change in the federal law and recent IRS interpretations on the treatment of bad debt reserves of savings banks with respect to reorganization. The committee was unanimous in recommending that this bill be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HCR 11, relative to the preservation and revitalization of New Hampshire's rail-based corridors of commerce. Economic Development Committee. Vote: 7-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House concurrent resolution 11 urges that the state's rail-based "corridors of commerce" be revitalized and preserved in order to put railways on an even competitive playing field with other modes of transportation. Encouraging interest in railroads may not only lead to a means to reduce congestion on overcrowded highways, but may also connect New Hampshire to some of its less recognized railroad history. Currently airports, seaports, and highways are funded while railroads are merely subsidized. The time has come for New Hampshire to recognize the historical, economical, and industrial benefits of rail travel and rail commerce. No one opposed the bill at the hearing. The committee recommends unanimously, that this bill ought to pass.

Adopted.

Ordered to third reading.

HB 254, relative to shared tenant telecommunication services. Economic Development Committee. Vote: 7-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-1093s

03/02

Amendment to HB 254

Amend RSA 374:22-h, III as inserted by section 1 of the bill by replacing it with the following:

III. "Shared tenant services" means voice and data communications services under which tenants at a single building, business park, office park, or mall are provided with such services through a private branch exchange operated by the landlord.

Amend RSA 374:22-k as inserted by section 1 of the bill by replacing it with the following:

374:22-k Penalty. Any person who violates the provisions of this subdivision shall, after notice and an opportunity for hearing, be subject to a civil penalty not to exceed \$1,000 per day of such violation.

SENATOR FRANCOEUR: House Bill 254 as amended, defines "shared tenant services" relating to telecommunication service, requires all providers of shared tenant services to fully disclose all of the prices for shared tenant services, and - after notice and an opportunity for hearing - imposes a penalty on providers who fail to disclose the prices for shared tenant services. House Bill 254 is a compromise bill as a result of the Supreme Court's ruling in the Appeal of Paul E. Zimmerman (NO. 95-420) to reverse a PUC order that declared Mr. Zimmerman a public utility under RSA 362:2 because he offered telecommunications services to his tenants. The Supreme Court determined that in fact Mr. Zimmerman was not functioning as a public utility because he was not engaged in selling telecommunications to an undifferentiated public. Under HB 254, the landlord shall be able to provide shared tenant services such as voice and data communications but shall fall under the jurisdiction of the PUC for items such as disclosure requirements regarding pricing information, disclosure of the option to use another authorized local telephone utility's basic exchange and services, and ability of the tenant to retain his/her direct inward dialing telephone number. No one opposed the bill at the hearing. The committee recommends unanimously, that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 540, establishing a committee to study ways in which state agencies can be encouraged to assist small businesses to develop practices that comply with state law. Economic Development Committee. Vote: 7-0. Ought to pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: Too often state agencies tend to fine companies first and educate later. Tragically, large penalties can readily and summarily put small businesses who committed a negligent but non-egregious violation out of business. This bill will assist the legislature in exploring means to insure that our small businesses stay informed, stay in business and continue supporting New Hampshire's economy. The committee recommends unanimously, this bill ought to pass.

Adopted.

Ordered to third reading.

HB 650, relative to limited liability companies. Economic Development Committee. Vote: 6-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: According to the explanation submitted by Attorney John Cunningham who worked on this project, HB 650 would "repeal current LLC two-member rule and permit single-member LLC's, eliminate certain types of events, such as members' deaths, that can lead to LLC liquidations, modify the right of departing LLC members to receive immediate payment for their LLC interests, repeal the current LLC

rule requiring annual meetings of LLC members and instead, give LLC members a right to demand meetings when they view them as necessary, clarify current rules for validity expelling LLC members, and allow for mergers among LLC's and other types of business entities." A limited liability company is a unique form of business that has many of the tax benefits of a partnership and has the isolated liability of a corporation. House Bill 650 was discussed in four subcommittee meetings of the House Commerce Committee. In addition, nine area attorneys donated considerable time in drafting and revising the bill before final print. This bill comes as a result of changes in federal regulations and is important to small NH businesses, which is the backbone of the state's economy. The Committee recommends unanimously, that this bill ought to pass.

Adopted.

Ordered to third reading.

HB 809, establishing a committee to study the feasibility of bringing the New England Patriots to New Hampshire. Economic Development Committee. Vote: 7-0. Ought to pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This committee will explore possible stadium sites, necessary capital improvements such as road access, fiscal impact, and tax benefits of bringing the Pats to the granite state. The Economic Development Committee ultimately decided that the first step to bringing the Patriots to New Hampshire should be the creation of a study committee. In short, the committee felt that if and when New Hampshire makes a proposal for the Patriots to relocate to our state, we should have as many answers as possible to potential questions. We need to let Mr. Kraft know that we are serious about bringing the Patriots here to New Hampshire. During the hearing and executive session, the committee entertained Representative Weatherspoon's amendment that would add the name of Martin Luther King, Jr. to Civil Rights Day. Representative Weatherspoon argued the germaneness of her amendment stating that New England Patriots will not relocate to New Hampshire unless New Hampshire honors Martin Luther King, Jr. Civil Rights Day. However, according to House Rule 49(b) "No member of a Committee of Conference shall sign any report which contains non-germane amendments or subject matter that has been indefinitely postponed in either house. For the purpose of this rule, a non-germane amendment is any subject matter not contained in either the House or Senate version of the bill." If Representative Weatherspoon's amendment passed the Senate as did similar legislation this very session, the bill would need to be killed by the House. In the interest of not delaying the original intent of HB 809, the committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 336, clarifying certain definitions relating to dams. Environment Committee. Vote: 5-0.

Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 336 emerged from the Rules Advisory Committee that met last year to review all dam regulations. It is designed to include impoundments for liquid or industrial waste, in the definition of dam. Additionally, it addresses an error in the present statute that incorrectly includes most dams and definition of a "dam in disrepair." House Bill 336 replaces the word "or" with "and" so that in or-

der for a dam to be classified as a "dam in disrepair," it must not only be of sufficient size and storage to be a menace to public safety, but it must also have deficiencies in its condition or its design. The Environment Committee, unanimously, recommends this bill's passage.

Adopted.

Ordered to third reading.

SB 54-FN, relative to gainful occupation of disability beneficiaries in the New Hampshire retirement system. Finance Committee. Vote: 7-0. Ought to pass with amendment, Senator Barnes for the committee.

1997-1069s

10/01

Amendment to SB 54-FN

Amend the bill by replacing all after section 1 with the following:

2 Funding. Any increase in retirement system pension liabilities due to an increase in the state annuity payable to a disability beneficiary pursuant to section 1 of this act shall be funded from the special account established by RSA 100-A:16, II(h).

3 Effective Date. This act shall take effect 60 days after its passage.

SENATOR BARNES: Senate Bill 54 relative to gainful occupation of disability beneficiaries in the New Hampshire retirement system. This bill allows all retirement systems members who leave their position as a result of a disability, to have their gainful occupation calculated based on base salary or the last three years of compensation, whichever is higher. The Finance Committee voted unanimously, as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 68-FN-L, providing health care coverage for the spouse and dependents of any group I or group II retirement system member who is killed in the line of duty. Finance Committee. Vote: 7-0. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: Senate Bill 68 was referred to Finance from the Insurance Committee. This bill is an important change to statute, because it currently refers to state employees with regard to spouses and dependents receiving health benefits when a person is killed in the line of duty. This bill changes the statute to "retirement system member" that would include those people, teachers, local police, local fire people, who are members of the retirement system but not an employee of the state. The Finance Committee voted unanimously, ought to pass.

Adopted.

Ordered to third reading.

HB 398, allowing Delta Dental Plan of New Hampshire to issue plans to individuals. Insurance Committee. Vote: 6-0. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 398 amends the statutory charter that establishes the Delta Dental Plan of New Hampshire to allow them to sell policies to individuals. Currently, the plan can only sell policies to employers or organizations. Selling individual policies will allow more people to gain access to dental coverage should their employer not provide it or offer it. Any expansion of Delta Dental's group

will be beneficial to all of the plans' customers, because an expanded group will help to lower risk and lower rates. The committee was unanimous in recommending this bill ought to pass.

Adopted.

Ordered to third reading.

HB 404, establishing a committee to study providing universal catastrophic health coverage by establishing a statewide catastrophic risk pool. Insurance Committee. Vote: 4-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-1101s
08/01

Amendment to HB 404

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house.

Three members of the senate, appointed by the senate president.

SENATOR FRANCOEUR: This bill will create a committee to study establishing a state-wide catastrophic risk pool for providing universal catastrophic health coverage. This type of risk pool is not currently used in any other state. One of the duties of the committee is to see how this pool would be set up. One source that the committee can use to help design the pool is workers' compensation pools. If established, this risk pool could save the state between 15 and 20 percent in the cost of catastrophic care. The committee recommends this bill as ought to pass.

Amendment adopted.

Ordered to third reading.

SB 207-FN, relative to a digital signature act. Finance Committee. Vote: 6-0. Ought to pass with amendment, Senator Blaisdell for the committee.

1997-1060s
01/02

Amendment to SB 207-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to a digital signature act.

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; New Hampshire Digital Signature Act. Amend RSA by inserting after chapter 294-C the following new chapter:

CHAPTER 294-D

NEW HAMPSHIRE DIGITAL SIGNATURE ACT

294-D:1 Short Title. This chapter shall be known and may be cited as the New Hampshire digital signature act.

294-D:2 Purposes; Rules of Construction; Variation by Agreement.

I. This chapter shall be construed consistent with what is commercially reasonable under the circumstances and shall effectuate the following purposes:

(a) To facilitate commerce by means of computerized communications.

(b) To enable and foster the reliable authentication of documents in computer form.

(c) To minimize the incidence of electronic forgeries.

(d) To establish uniformity regarding the authentication and reliability of electronic messages.

II. Persons whose duties are prescribed by this chapter may more precisely define those duties by agreement among themselves.

294-D:3 Definitions. In this chapter:

I. "Asymmetric cryptosystem" means an algorithm or series of algorithms which provide a secure key pair.

II. "Certificate" means a computer-based record which:

(a) Identifies the certification authority.

(b) Identifies the subscriber.

(c) Contains the subscriber's public key.

(d) Is digitally signed by the certification authority.

III. "Certification authority" means a person who issues a certificate.

IV. "Digital signature" means a type of electronic signature that transforms a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine:

(a) Whether the transformation was created using the private key that corresponds to the signer's public key.

(b) Whether the initial message has been altered since the transformation was made.

V. "Electronic signature" means any letters, characters, or symbols, manifested by electronic or similar means executed or adopted by a party with an intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing.

VI. "Key pair" means a private key and its corresponding public key in an asymmetric cryptosystem, under which the public key verifies a digital signature the private key creates.

VII. "Repository" means a database of certificates accessible on-line.

VIII. "Repository operator" means the person operating and responsible for the repository.

294-D:4 Verification of Digital Signature; Certificates. The secretary of state shall be a certification authority and a repository operator and shall issue regulations, orders and guidelines for the purpose of implementing control processes and procedures to insure adequate integrity, security, confidentiality, and auditability of transactions with and involving state agencies conducted using electronic commerce. The secretary of state shall also issue regulations, orders and guidelines concerning procedures for state certification of private certification authorities. The secretary of state shall charge a fee for products and services administered under this section, consistent with fees charged for similar products and services in the open market. The provisions of RSA 541-A shall not apply to this section.

294-D:5 Effect of Electronic Signatures.

I. Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.

II. In assessing whether a digital signature was executed or adopted with respect to a record by a particular person, the trier of fact may consider any relevant information and circumstances, including whether the signature is unique to the signer, unauthorized persons had the

opportunity to create the signature, the signature is capable of verification, the signature is invalidated if the record is altered, and the reliability of the method used to create, store, and communicate the signature was appropriate for the purposes for which it was created.

2 New Subparagraph; Exemption Added. Amend RSA 541-A:21, I by inserting after subparagraph (t) the following new subparagraph:

(u) RSA 294-D:4, relative to digital signatures.

3 Repeal. RSA 294-D:4, relative to verification of digital signatures, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2000.

II. The remainder of this act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill establishes the New Hampshire Digital Signature Act which is to be administered by the secretary of state. The bill allows the secretary of state to implement the law pursuant to its own procedures which are exempt from RSA 541-A.

SENATOR BLAISDELL: Mr. President and members of the Senate, this digital act was submitted to us by Senator Rubens through the secretary of state's office. All that we looked at was... the policy of this bill was already passed in this Senate. All that we were looking at was the financial impact. The Senate Finance Committee has found that eventually this is a wash. We have to have startup money. It is a wash in the secretary of state's office. If you want afterwards, to have Senator Rubens explain because he was... as far as the Senate Finance Committee, we had this bill as ought to pass as amended. That was just on the fiscal impact of the bill. Senator Rubens can talk about the rest if he would like.

SENATOR RUBENS: Senate Bill 207 is the digital signature act, was referred to Finance from Executive Departments and Administration Committee and in the ED & A Committee there was unanimous support of the bill. Digital signatures are a computer form of signature and they are... this form of electronic signature is identical in legal force, and in fact, as a written signature. Under section 294-D:4 Verification of Digital Signature; Certificates. This bill will be sunsetted as of July 1, 2000. The reason the Executive Departments and Administration Committee recommended that is so that the legislature will be compelled to and so that the people of the state will be ensured that we will review the effectiveness of this new instrument, this new electronic legal instrument. The secretary of state shall be the certification authority for state agencies and board under this bill. To explain exactly what happens when a digital signature is used, an individual can register and receive, from the secretary of state, a public key that can be used to verify message authors and to authenticate that a message content that has been received, has been unaltered in any form and that the person sending it has not forged their personhood. The author of a message will send two versions of the message, one in plain key to decode the encrypted message. By comparing the plain text to the encrypted version, the recipient will be able to verify the author and the intended content of the message. This technology was invented and has been used for several years by the Department of Defense and is beginning to be utilized in a number of states. We will be among the earlier of the users in the country. Thus far, the encryption technology has not been broken. Estimates are that it would

take more computer horsepower to break the encryption technology here than is now available to any person. The securities division of the office of the secretary of state has indicated a cost of two hundred and fifty-eight thousand dollars over a two-year period. The bill does not contain that sum of money. I am told that Finance will consider that part of the budget making process. But Finance found that investment of that sum of money to be worthwhile. The securities division has testified that there will be an almost immediate return once the corporate division goes on line selling the data that will now become available electronically. It is possible, according to the secretary of state's office, that there could be a seventy-five thousand dollar flow of off-setting revenue during that two-year period as this process is rammed up and used through more state agencies. This can be used here in the Justice Department for example, for court orders to be sent electronically, by Health and Human Services, and generally, we will be replacing paper documents with electronic documents which of course, don't require storage space. We will be able to eliminate real estate that the state is now leasing and we will be able to in general, able to speed the provision of public services to reduce their cost and increase their quality at the same time. Thank you very much. I felt that it needed some explanation.

Amendment adopted.

Ordered to third reading.

SB 209-FN, establishing a residential care pilot program and transferring funds for its purpose. Finance Committee. Vote: 6-0. Ought to pass with amendment, Senator F. King for the committee.

1997-1115s

01/09

Amendment to SB 209-FN

Amend the title of the bill by replacing it with the following:

AN ACT establishing a residential care pilot program and providing for the funding of such program.

Amend the bill by replacing sections 2-3 with the following:

2 Pilot Program.

I. The commissioner of the department of health and human services shall request an amendment to the Home and Community Based Care waiver for the Elderly and Chronically Ill to create a 2-year pilot program for residential care services. If the waiver is approved, the commissioner shall address by rulemaking under RSA 541-A the following:

(a) The number of designated beds shall be 180 for residential care, rule He-P 804.

(b) Client eligibility.

(c) Service definition.

(d) Non-covered services.

(e) Provider qualifications.

(f) Provider requirements.

(g) Reimbursement: He-P 804 shall be the present Old Age Assistance (OAA) level plus an additional amount to bring the total rate to \$1,000 per month.

II. This pilot program shall terminate on November 30, 1999 or 2 years after the first date of operation of the program, as certified by the commissioner of health and human services to the secretary of state, unless authorized to continue by the legislature.

III. The commissioner shall pursue additional funding for this pilot project in the form of grants from federal and private foundation sources and may expend such grants, moneys, and any appropriation for the purposes of the program.

3 Funding. The amount of money necessary to fund the pilot program under section 2 of this act for the biennium shall be transferred from funds already appropriated for the biennium ending June 30, 1999, from PAU 05, 01, 04, 04, 02, class 90 within the department of health and human services. Any other funds, including federal funds, made available for this pilot program under section 2 of this act are hereby appropriated for the purposes of this act.

AMENDED ANALYSIS

This bill establishes a 2-year pilot program to extend the home and community based care program for the elderly and chronically ill and requests the commissioner of the department of health and human services to amend the Home and Community Based Care waiver for the Elderly and Chronically Ill.

The bill funds the pilot program from a PAU within the department of health and human services.

SENATOR F. KING: Senate Bill 209 was referred to the Finance from the committee on Public Institutions, Health and Human Services. This bill establishes a residential care pilot program using funds appropriated for nursing homes in FY 98 and 99. The commissioner of the Department of Health and Human Services must obtain a federal waiver to create a two-year pilot program for residential care services. Currently, funding for one hundred and forty beds are 50 percent county and fifty percent state, general funds. At a rate of one hundred and sixty-five dollars per bed. If the waiver is approved, federal Medicaid matching funds will be available for the funding of one hundred and eighty beds at an increase of 487 per bed will be split 50 percent federal and twenty-five percent county and twenty-five percent state. It is assumed that the increase in the residential care beds could decrease nursing home costs and will bring in additional federal funds. Section XI page 443 of HB 1-FN as amended by the House Finance Committee, appropriate one million forty thousand dollars in fiscal year 1998 and one million ninety thousand dollars in 1999. This appropriation is already included in the budget. Home nursing services can be used exclusively to increase the availability of community based service that put individuals at risk requiring long-term care services. This bill as amended requires that the residential pilot care program be established from funds already appropriated for the biennium to the Department of Health and Human Services. It also authorizes the commissioner of Health and Human Services to pursue additional federal and other funding to spend any such funds in the future. The Senate Finance Committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senator D. Wheeler in opposition to the third reading motion on SB 209-FN.

SB 216-FN-A, relative to pari-mutuel racing and taxes on pari-mutuel pools. Finance Committee. Vote: 5-1. Ought to pass with amendment, Senator Fraser for the committee.

1997-1121s
03/02

Amendment to SB 216-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose.

I. The general court finds that the pari-mutuel industry provides substantial and positive impacts on the economies of the local communities in which they are located and the state of New Hampshire. The pari-mutuel facilities pay substantial local property taxes and fees and provide jobs to thousands of New Hampshire residents. The pari-mutuel industry is also a significant part of tourism in the state.

II. The general court finds that developments in the pari-mutuel industry throughout the country are occurring rapidly. In response to these developments, the pari-mutuel commission should be specifically empowered to authorize the pari-mutuel licensees to enhance existing pari-mutuel wagering opportunities by allowing activities such as account wagering, telephone wagering, computer wagering, and Internet wagering. The pari-mutuel commission should adopt appropriate rules to allow such enhancements with notice and hearing.

III. The general court finds that the pari-mutuel industry in the state of New Hampshire is experiencing significant competition both from various gambling opportunities within the state of New Hampshire as well as gambling activities in other jurisdictions. The general court specifically finds that the tax structure in the state of New Hampshire creates a substantial competitive disadvantage to the pari-mutuel facilities in the state of New Hampshire and that the tax and fee structure of RSA 284 must be revised in some manner to lessen competitive disadvantages faced by the pari-mutuel industry in the state of New Hampshire.

2 New Section; Pari-Mutuel Commission; Rulemaking. Amend RSA 284 by inserting after section 11 the following new section:

284:11-a Discretionary Rulemaking. The pari-mutuel commission may adopt rules, pursuant to RSA 541-A and after a public hearing, to allow pari-mutuel licensees to utilize existing and developing technologies to accept pari-mutuel wagers such as account wagering, telephone wagering, and computer wagering. Such wagering shall be on pari-mutuel races and pari-mutuel race meets permitted under this chapter.

3 Pari-Mutuel Pools. RSA 284:22 is repealed and reenacted to read as follows:

284:22 Pari-Mutuel Pools. During the calendar years of 1941-2009, a licensee under this chapter may sell pari-mutuel pools in accordance with this chapter and rules adopted by the commission. Pari-mutuel pools shall be sold within the enclosure of the racetrack where a licensed race or race meet is held or as provided in RSA 284:22-a, and not elsewhere. RSA 284:23 shall apply to the type of race on which wagers are made, whether live or simulcast.

I. The commission on all win, place, and show pari-mutuel pools at tracks or race meets at which running horse races are conducted for public exhibition shall be uniform throughout the state at the rate of 19 percent of each dollar wagered in such pools, and the commission on all other pari-mutuel pools at such tracks or race meets shall be at the rate of not less than 26 percent of each dollar wagered in such pools and not more than 27 percent of each dollar wagered in such pools as determined from time to time by the licensee which conducts live running horse races after written notice to the commission and, in the absence of writ-

ten notice, at the rate of 26 percent of each dollar wagered in such pools. Except as provided in RSA 284:22-a, the amount of the purse at such tracks or race meets at which running horse races are conducted shall be 8-1/4 percent of each dollar wagered in all pari-mutuel pools, said 8-1/4 percent to be paid by the licensee out of the commission on such pools. All of the odd cents of redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10 (except, with simulcast wagering, in cases where the licensee pays out more than the total amount in the pool, the lowest multiple of 5 shall be used), known as "breakage", shall be retained by the licensee. Each licensee shall pay the tax provided for in RSA 284:23.

II. The commission on all win, place, and show pari-mutuel pools at tracks or race meets at which harness horse races are conducted for public exhibition, including those conducted by agricultural fairs, shall be uniform throughout the state at the rate of 19 percent of each dollar wagered in such pools, and the commission on all other pari-mutuel pools at such tracks or race meets shall be at the rate of not less than 25 percent of each dollar wagered in such pools and not more than 26 percent of each dollar wagered in such pools as determined from time to time by the licensee which conducts live harness horse racing after written notice to the commission and, in the absence of such written notice, at the rate of 25 percent of each dollar wagered in such pools. All of the odd cents of redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10, known as "breakage," shall be retained by the licensee. Each licensee shall pay the tax provided for in RSA 284:23.

III. For the purposes set forth in this section, an "agricultural fair" means an association which provides for and pays premiums of \$5,000 or more, annually, as is determined by the commissioner of agriculture, markets, and food, in accordance with RSA 284:25.

IV. The commission on all win, place, and show pari-mutuel pools at tracks or race meets at which dog races are conducted for public exhibition shall be uniform throughout the state at the rate of 19 percent of each dollar wagered in such pools; and the commission on all other pari-mutuel pools at such tracks or race meets shall be at the rate of not less than 26 percent of each dollar wagered in such pools and not more than 27 percent of each dollar wagered in such pools as determined from time to time by the licensee which conducts live dog racing after written notice to the commission and, in the absence of such written notice, at the rate of 26 percent of each dollar wagered in such pools. All of the odd cents of redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10, known as "breakage", shall be retained by the licensee. All proceeds of uncashed pari-mutuel tickets shall be retained by the licensee. Each licensee shall pay the tax provided for in RSA 284:23.

4 Simulcast; Required Live Race Days. Amend RSA 284:22-a, II(a)(3) to read as follows:

(3) The licensee has scheduled at least ~~[100]~~ **50 calendar** days of live racing in the calendar year in which the licensee simulcasts, or if the licensee ~~[does]~~ **has** not ~~[have]~~ scheduled at least ~~[100]~~ **50 calendar** days of live racing in such calendar year, the licensee conducts live racing on the ~~[day]~~ **date** on which the licensee simulcasts; and

5 Pari-Mutuel Pools on Simulcast Racing. Amend RSA 284:22-a, IV to read as follows:

IV. A licensee which has scheduled less than ~~[100]~~ **50 calendar** days of live racing in a calendar year may simulcast on a day on which live

racing is scheduled at the licensee's race track, without conducting live racing, provided that the live racing program is canceled due to weather or other conditions which produce unsafe conditions at the racetrack of the licensee. The determination to cancel a live **racing** program based upon weather or the condition of the racetrack shall be made by the licensee, and notice shall be provided to the commission. Notwithstanding the foregoing, a licensee which has scheduled less than ~~[100]~~**50 calendar** days of live racing shall be limited to no more than 10 such cancellations in a calendar year.

6 Tax. RSA 284:23 is repealed and reenacted to read as follows:

284:23 Tax.

I. Each person, association or corporation licensed to conduct a running horse race or running horse meet under this chapter shall pay to the state treasurer a sum of money equal to one percent of the total contributions to all pari-mutuel pools conducted, made, or sold at any such race or meet licensed under this chapter. The amounts so paid to the state treasurer shall be for the use of the state.

II. Each person, association, or corporation licensed to conduct a harness horse race or harness horse race meet under this chapter shall pay to the state treasurer a tax of one percent of all total contributions to all pari-mutuel pools in a calendar day. The amount so paid to the state treasurer shall be for the use of the state.

III. Each person, association, or corporation licensed to conduct a dog race or a dog race meet under this chapter shall pay to the state treasurer a sum equal to 1-1/4 percent of so much of the total contributions to all pari-mutuel pools conducted, made, or sold at any dog race or dog race meet licensed under this chapter. The amount so paid to the state treasurer shall be for the use of the state.

IV. Each person, association, or corporation licensed to conduct a race or race meet under this chapter shall also pay to the city or town treasurer in which the racing plant is located for each day of racing, whether such day includes live racing only, simulcast racing only, or a combination thereof, the fees assessed in subparagraphs (a) and (b) below, based upon the aggregate pari-mutuel pools conducted, made, or sold by such person, association, or corporation on each such day. This rate is provided if said person, association, or corporation has a license to conduct races or race meets for more than 10 days during the year for which the license is issued. If said person, association, or corporation has a license to conduct races or race meets for 10 days or less, the per diem fee shall be determined by the commission.

(a) Each Weekday including Saturday

Pari-mutuel pool	Fee
Under \$300,000	\$ 300 per day
\$300,000 or more	\$ 350 per day

(b) Each Sunday

Pari-mutuel pool	Fee
Under \$350,000	\$ 400 per day
\$350,000 but under \$500,000	\$ 500,000 \$ 800 per day
\$500,000 or more	\$ 1,200 per day

V. The tax rates established by paragraphs I and II of this section shall remain in effect only until the bonds obtained by any entity for reconstruction of Rockingham Park have been paid off, unless such bonds are refinanced by the entity which owns Rockingham Park, and in such latter event, until such refinancing is paid off, but in no event later than December 31, 2009.

VI. During each calendar year, by March 31, each licensee shall make a report to the commission with regard to such licensee's efforts to enhance live racing at such licensee's race track. Such report shall include, but not be limited to, licensee's enhancement of purses, capital improvements, promotion, advertising, and other activities determined by the licensee to enhance live racing. The report shall be in writing and shall be in sufficient detail as determined by the commission. The report shall be distributed to the commission and each member of the fiscal committee.

7 Repeal. The following are repealed:

I. 1989, 219:2, relative to a prospective amendment to RSA 284:22, IV which would have been effective July 1, 1998, at 12:01 a.m. pursuant to 1989, 219:9, I as amended by 1992, 185:5.

II. 1989, 219:5, relative to a prospective amendment to RSA 284:23, II-a which would have been effective July 1, 1998, at 12:01 a.m. pursuant to 1989, 219:9, I as amended by 1992, 185:5.

III. 1993, 358:85, relative to a prospective amendment to RSA 284:22, IV which would have been effective July 1, 1998 at 12:01 a.m.

IV. 1995, 224:2, relative to a prospective amendment to RSA 284:23, V which would have been effective July 1, 1997, pursuant to 1995, 224:3, I as amended by 1996, 201:9.

8 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill:

I. Revises the commission structure on pari-mutuel pools and the tax on contributions to pari-mutuel pools. The new structure of the tax lowers and standardizes the overall rate of tax for running horse races, harness horse races, and dog races.

II. Authorizes the pari-mutuel commission to adopt rules to allow pari-mutuel wagering through account wagering, telephone wagering, and computer wagering.

III. Reduces the number of scheduled live race days per year necessary for authorization to simulcast.

Repeals a number of prospective amendments to the tax and commission structure which are no longer appropriate in light of this bill.

SENATOR FRASER: Mr. President, SB 216 as amended is a bill that I am pleased to report, supports all four race tracks here in the state of New Hampshire. The amendment is a result of efforts of many of us here in this body, but most significantly, Mr. President, you and Senator Fred King in getting this agreed piece of legislation. Let me explain the changes that the amendment proposes to SB 216. Section 1 of the amendment is the purpose of the bill. This purpose is essentially identical to the original version of SB 216. Section 2 of the amendment allows for rulemaking by the commission for certain enhancements. The commission is required to have a public hearing. This section is also identical to the original bill. Section 3 of the amendment deals with the amount of each bet that the track retains to pay taxes, operational expenses and other fees. In the original version of SB 216 the tracks were allowed to keep all proceeds from uncashed tickets. This provision has been deleted from this section. The current law is that the state and the tracks divide that amount equally. That provision will continue. The amendment provides that all breakage, that is the odd cents remaining when payoffs are rounded off to the nearest ten cents, will be retained by the tracks. This provision was in the original version of SB 216 and continues. Section 4 of the amendment reduces a number of live calendar days that a track must rent. The original version of the bill provided

for seventy-five live calendar days and the amendment provides for 50. Section 5 of the amendment deals with the live calendar days required in order to simulcast. The original bill provided for seventy-five and the amendment provides for 50. Section 6 of the amendment deals with the tax structure. Under the original bill, the tax structure was based on whether the wagering was live or simulcast and whether it was dog or horse racing. Under the original version the tax rate was one half of one percent for live horse racing and three quarters of one percent for simulcast horse racing. The amendment provides for a flat tax on all horse racing whether live or simulcast at one percent. Under the original bill, the tax rate for live dog racing was three quarters of one percent and one percent on simulcast dog racing. The tax rate under this amendment is a flat 1.25 percent on live and simulcasts dog racing. The remaining portions of section 6 are identical with the original version of SB 216. Section 7 and 8 of the Senate Bill are deleted and do not appear in SB 216 as amended. Those sections dealt with certain costs that currently are borne by the race tracks. Senate Bill 216 proposed to shift those costs to the state, those costs will remain with the race tracks with this amendment. Section 7 of the amendment repeals four statutes that are no longer in effect in regard to legislation. Section 8 of the amendment is the effective date that is identical to the original date in the bill. The fiscal impact, Mr. President and members of the Senate, of SB 216 was approximately \$5 million. The fiscal impact of SB 216 as amended between \$2.4 million and \$2.9 million. As I mentioned at the beginning of my remarks, this amendment has the full support of all four race tracks. This bill recognized the importance of the racing industry in New Hampshire and recognizes that the state as a partner in industry, should assist its partner in continuing in business. The committee was unanimous in urging the support of the body.

Amendment adopted.

Ordered to third reading.

HB 516-FN, increasing the fuel oil discharge cleanup fund fee. Finance Committee. Vote: 6-0. Ought to pass with amendment, Senator Barnes for the committee.

1997-1075s
03/01

Amendment to HB 516

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect July 1, 1997 at 12:01 a.m.

SENATOR BARNES: This bill increases the fee assessed on fuel oil imported into this state. In addition, the bill provides for a transfer of one million dollars from the Oil Pollution Control Fund to the Fuel Oil Discharge Cleanup Fund that will be paid back from a portion of the revenue collected from the fees assessed on the fuel oil imported into the state. Finally, the bill makes owners of on premise used facilities responsible for one hundred dollar deductible clean up costs expended by the Fuel Oil Discharge Cleanup Fund. Finance amended the effective date at the request of the Department of Safety. As written the existing date upon passage created a bookkeeping problem that was easily addressed by the change of July 1, 1997. The Finance Committee, unanimously, agreed to have this as ought to pass with amendment. I would appreciate your concurrence with the committee's recommendation of the report.

Amendment adopted.

Ordered to third reading.

CACR 18, Relating to: references to the governor in the constitution. Providing that: all references to the governor in the constitution shall be gender neutral. Internal Affairs Committee. Vote: 7-0. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: This constitutional amendment concurrent resolution allows the public to vote on whether or not to make references in the constitution pertaining to the governor gender neutral. The state now has its first female governor and the references in the constitution should reflect either gender. The committee unanimously recommends that this bill be ought to pass.

A 3/5 vote necessary.

Adopted unanimously.

HB 252, relative to posting of bylaws in advance of any town election. Internal Affairs Committee. Vote: 5-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-1063s

05/01

Amendment to HB 252

1 Amend RSA 31:41-c as inserted by section 1 of the bill by replacing it with the following:

31:41-c Electioneering. Towns shall have the power to make bylaws regulating the distribution of campaign materials or electioneering or any activity which affects the safety, welfare and rights of voters at any election held for any purpose in such town. Such power shall not extend to the display of printed or written matter attached to any legally parked motor vehicle, nor shall such power extend to activities conducted wholly on private property so as not to interfere with people approaching or entering a polling place. Failure to conform to bylaws adopted under this section shall constitute a violation. ***A copy of the bylaws adopted under this section [may] shall be provided to the town clerk immediately following adoption so that they may be made available to candidates filing for office, and shall be posted at each polling place at least 72 hours in advance of any town election[~~, at the town clerk's office~~].***

1997-1063s

AMENDED ANALYSIS

This bill requires that a copy of the bylaws regulating the distribution of campaign materials or electioneering or any activity which affects the safety, welfare, and rights of voters at any election held for any purpose in a town be provided to the town clerk immediately following adoption, and posted at each polling place at least 72 hours in advance of any town election. Current law makes such posting optional.

SENATOR GORDON: This bill will help to ensure that both candidates filing to run for office and voters at the polls will have the ability to review the towns' bylaws regarding what practices are allowed and not allowed during elections around the polling area. The town would have been required to have posted its bylaws in the town clerk's office permanently so that anyone running for office could review the bylaws. Also, they would have to be posted at each polling place seventy-two hours before the election. The committee amended the bill in order to take into consideration the differing conditions that exist in varying towns. As

amended, the town clerk is required to have a copy of the bylaws so that they may be able to provide those bylaws to anyone seeking them. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 264, relative to technical committees advising the director of the office of information technology management on technical issues. Internal Affairs Committee. Vote: 5-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1065s

10/01

Amendment to HB 264

Amend the introductory paragraph of RSA 21-I:72 as inserted by section 1 of the bill by replacing it with the following:

21-I:72 Technical Committees. The director ~~[may]~~ **shall** establish~~[, as needed,]~~ ~~[working]~~ **technical** committees to advise the **director of the office of information technology management and** staff on technical issues. Each technical committee shall ~~[be composed of]~~ **include** personnel from ~~[state agencies]~~ **all 3 branches of government** who are expert in the specific issue that is the focus of the committee. These issues may include but are not limited to:

SENATOR FRASER: Mr. President, this bill requires a technical committee that advises the director of the office of information technology to include members from all three branches of government. The bill is in response to varied actions taken from different departments with regard to going on-line. The technical committees in question, will be able to give agencies consistent advice about the best way to work with the Internet that is established by requiring that the committees to investigate the issue of the Internet. This committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 332, repealing the law which prohibits an entity which conducts horse or dog racing from employing a member of the general court. Internal Affairs Committee. Vote: 5-0. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill repeals the law prohibiting dog and horse tracks from employing a member of the General Court. This law is no longer necessary and there are plenty of safeguards in place through the ethics guidelines to prevent any undo influence of the General Court by the tracks. The committee was unanimous in reporting this bill out as ought to pass. There was no opposition to this bill.

Adopted.

Ordered to third reading.

HB 379-FN, requiring all candidates for speaker of the house or senate president to file certain reports of contributions and to register as political committees. Internal Affairs Committee. Vote: 6-0. Ought to pass with amendment, Senator Russman for the committee.

1997-1102s
05/09

Amendment to HB 379-FN

Amend the title of the bill by replacing it with the following:

AN ACT requiring all candidates for speaker of the house to file certain reports of contributions and to register as political committees.

Amend the bill by replacing section 1 with the following:

1 New Section; Reporting of Contributions to Candidates for Speaker of the House Required. Amend RSA 664 by inserting after section 7 the following new section:

664:7-a Reporting by Candidates for Speaker of the House of Representatives.

I. Each candidate seeking election by the house of representatives for speaker of the house of representatives, who has expenditures exceeding or receipts exceeding \$500, shall:

(a) File statements before and after such election in like manner and detail prescribed in RSA 664:6, II, II-a, and III, up to and including the additional dates of 7 days prior to, and 7 days following, the date of the respective election; and

(b) Register as a political committee, pursuant to RSA 664:3, on the date that such person becomes a candidate for speaker of the house of representatives, notwithstanding the definition of the term "political committee" in RSA 664:2, III.

II. In this section, and notwithstanding RSA 664:2, II, the term "candidate" means a person who seeks nomination for election, or election, for speaker of the house of representatives, and for purposes of this section, a person shall be deemed to seek nomination for election, or election if such person:

(a) Has received gifts or contributions aggregating in excess of \$500 or has made expenditures aggregating in excess of \$500; or

(b) Has given his or her consent to another person to receive gifts or contributions or make expenditures on behalf of such person and if such other person has received such gifts or contributions aggregating in excess of \$500 or has made such expenditures aggregating in excess of \$500.

AMENDED ANALYSIS

This bill requires all candidates for house speaker to file certain reports of contributions and to register as political committees.

Senator Patenaude moved to have **HB 379-FN**, requiring all candidates for speaker of the house or senate president to file certain reports of contributions and to register as political committees, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 379-FN, requiring all candidates for speaker of the house or senate president to file certain reports of contributions and to register as political committees.

HB 117, relative to Persian Gulf War bonus payments. Public Affairs Committee. Vote: 7-0.

Ought to pass with amendment, Senator Barnes for the committee.

1997-1114s**09/01****Amendment to HB 117**

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1-3 to read as 2-4, respectively:

1 Findings; Persian Gulf War Service Bonus Payments. The legislature finds that approximately 1,300 veterans will receive \$100 Persian Gulf War service bonus payments from the state under RSA 115-A:9-15, at an approximate cost to the state of \$130,000.

SENATOR BARNES: House Bill 117 clarifies the dates of active service which qualifies active armed service members for Persian Gulf War bonus payments and provides for forfeiture of any Persian Gulf War bonus payment obtained by fraud. House Bill 117 also states that "No individual who has received a Persian Gulf War bonus payment from another state shall be qualified to receive benefits under this subdivision." Though RSA 115-A:9 has been in effect since 1992, as stated under the source section in NH RSA 115-A:9, "This section shall take effect 6 months after the declaration by the Secretary of Defense of the cessation of hostilities in the Persian Gulf." Hence, without the end date in statute, members of the armed services who were qualified for the bonus when the statute took effect have not yet received the bonus. To solve this problem, HB 117 provides that each person who actively served in the armed forces between August 2, 1990 and November 30, 1995 and who received a Southeast Asia Service Medal (SASM) is entitled to a one hundred dollar's bonus payment. Though there is no fiscal note attached to HB 117, the total impact on the state will be approximately one hundred and thirty thousand dollars as thirteen hundred vets - two hundred and nineteen persons on active duty and 1316 SASM recipients - are eligible for the one hundred dollar bonus. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 328-L, relative to hour limitations on voting. Public Affairs Committee. Vote: 5-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: House Bill 328 requires that any person who is waiting to register to vote on election day at the time scheduled for the closing of the polling place be allowed to vote if they are found to be qualified to register. Preregistered voters are already covered under New Hampshire statute RSA 659:6 which reads: "Except as provided in RSA 659:3, in all state elections, the voters present at the polling place may vote to keep the polls open until a later hour but may not vote close the polls at an earlier hour than that prescribed in the warrant." However, RSA 659:6 does not cover un-registered voters waiting to vote who may be outside the confines of the "polling place." According to the secretary of state, often times the place to register to vote on election day are not right at the polls but in another building or another area. House Bill 328 would allow those persons registering to vote — perhaps in another area - to register and vote if they are in line at the prescribed poll closing time. The committee recommends unanimously, that this bill ought to pass.

Adopted.

Ordered to third reading.

HB 255, establishing a committee to study access to dental care for low-income, uninsured, and underinsured persons. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator Squires for the committee.

1997-1117s

01/09

Amendment to HB 255

Amend subparagraphs I (a) (1) and (2) as inserted by section 3 of the bill by replacing them with the following:

(1) Three members of the senate, appointed by the president of the senate.

Three members of the house of representatives, appointed by the speaker of the house.

SENATOR SQUIRES: House Bill 255 creates a committee to examine the problem in accessing dental care for low income, uninsured and underinsured people. This committee will make recommendations to improve access, data gathering and analysis. The mouth is not separate from the body and is an essential part of good health; dental problems can directly affect the physical well-being of the entire body. For example, a person with dental pain may have significant difficulty in simply eating. Poor dental care can make job interviews difficult and embarrassing. The esthetic quality to good dental care can improve a person's self-esteem and confidence. There has been a lot of discussion in the past but very little in the way of solutions. Programs for trained individuals went to New Hampshire's schools and educated children on the need of proper dental care were, "defunded" in 1992. The committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 434, relative to milk products of sheep and goats and milk producer permits and allowing the commissioner of the department of health and human services to impose certain administrative fines. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass, Senator McCarley for the committee.

SENATOR MCCARLEY: House Bill 434 was a request of the Department of Health and Human Services to help clarify the department's role in ensuring the safety of dairy products sold in New Hampshire and shipped to other states. This bill provides for the regulation of goat and sheep's milk for retail sale and gives the department the authority to impose administrative fines in addition to other penalties for violations of the laws regulating milk. Additionally, this bill provides for an exemption for permanent milking facilities at fair grounds from having to obtain a new permit each time they are used. The Public Institutions, Health and Human Services Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 415, establishing a nighttime speed limit for OHRVs traveling on the frozen surface of Back Lake in the town of Pittsburg. Transportation Committee. Vote: 6-0. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: This bill is apparently necessary, because in every winter except for this winter, at least on average, one person has been killed on Back Lake in snowmobile accidents because they have been operating at high speeds. It would impose a thirty-five mile an hour night time speed limit. Apparently alcohol has been a consideration in each one of those deaths. This will not affect... some people will be pleased to know that they will still be able to go as fast as they want on every other lake, I guess, but on this lake, Back Lake, they will not be able to do so. The question is, who is going to be enforcing this? Apparently, they are saying right now, that the Fish and Game Department and the Pittsburg Police Department are geared up for this effort. So we would urge a positive vote on this bill.

Adopted.

Ordered to third reading.

HB 285, relative to the official name of the "Old Man of the Mountain." Wildlife and Recreation Committee. Vote: 5-0. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 285 officially codifies and singularizes the name of the granite formation on Cannon Mountain as the "Old Man of the Mountain." Throughout the history of the state there have been documented references to the "Old Man of the Mountain." However, in recent years, DRED, apparently as an oversight, has pluralized the name in its advertisements by adding an "s" to the word 'mountain.' House Bill 285 seeks to correct this oversight. DRED has indicated that it will cost nothing to correct their signs. This bill was a request from former representative Nielsen, whom as many of you know, served as the caretaker of the Old Man of the Mountain for more than 30 years. The Wildlife and Recreation Committee recommend ought to pass.

Adopted.

Ordered to third reading.

HB 381, relative to public recreation and park areas in municipalities. Wildlife and Recreation Committee. Vote: 3-0. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 381 was unanimously supported at the public hearing because it enables towns to manage themselves with respect to their parks and recreation departments. Specifically, the bill permits towns to consolidate their parks and recreation departments with other departments. Several municipalities are interested in doing this in an effort to save money. The Wildlife and Recreation Committee unanimously recommend passage of this bill.

Adopted.

Ordered to third reading.

HB 390, relative to quarantine of captive wildlife. Wildlife and Recreation Committee. Vote: 5-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 390 was a request of the Department of Fish and Game and gives the state veterinarian the authority to quarantine captive wildlife that may possess an infectious or contagious disease. Presently, the state vet may only quarantine domestic wildlife. With the increased concern for the potential spread of diseases among captive wildlife such as buffalo or llama herds, it is in the state's

best interest to grant the state's vet the authority to quarantine an animal he perceives to suffer from such a disease. Additionally, HB 390 gives the state vet the authority to quarantine exotic animals such as elephants that are brought to New Hampshire as part of a traveling show if they are suspected to have a contagious or infectious disease. The Wildlife and Recreation Committee recommend HB 390 for passage.

Adopted.

Ordered to third reading.

HB 498-FN-A, recognizing the New Hampshire Farm Museum in Milton, New Hampshire as the first official state of New Hampshire farm museum. Wildlife and Recreation Committee. Vote: 4-0. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 498 recognizing the New Hampshire Farm Museum in Milton, as the first official state farm museum. The museum first opened in 1979 after nearly ten years of collecting equipment from farms throughout the state. It impressively preserves New Hampshire's farm and cultural heritage by putting on interactive programs for people of all ages in an effort to help them better understand what farming was like in the 1890's. The farm museum is completely self-supporting and is not looking for state funding. The Wildlife and Recreation Committee unanimously recommend ought to pass on HB 498.

Adopted.

Ordered to third reading.

HB 628, relative to an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, establishing a committee to develop a proposal and review responses, and requiring review of any agreement or contract by the capital budget overview committee. Wildlife and Recreation Committee. Vote: 5-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-1110s

10/09

Amendment to HB 628

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. The committee shall consist of the following members:

(a) Ten members of the house of representatives, at least 3 of whom shall be members of the minority party, and at least 8 of whom shall be members of the resources, recreation, and development committee, appointed by the speaker of the house.

(b) Four members of the senate, at least 1 of whom shall be a member of the minority party, appointed by the president of the senate.

Amend the bill by replacing section 3 with the following:

3 Review by Capital Budget Overview Committee; Public Comments. Any agreement or contract recommended pursuant to this act shall be submitted to the capital budget overview committee established in RSA 17-J for review and approval. No agreement or contract shall take effect until such approval is obtained. The capital budget overview committee shall receive written public comments submitted prior to the time the committee votes on a recommended agreement or contract.

SENATOR PATENAUDE: House Bill 628 requires the Department of Resources and Economic Development to issue a request for proposals to

lease or contract the Mount Sunapee or the Cannon Mountain Ski Resorts. The bill is the result of two years of work by a legislative study committee that looked at the potential of leasing the two ski resorts. House Bill 628 will enable the department to determine if there are any suitable, privately owned ski management companies interested in leasing either or both of the states' resorts. If there is an adequate response to this request for proposals, then a legislative oversight committee, along with DRED, will review the responses to determine which entity is best suited to run the ski facilities. A final decision will be made by the Capital Budget Overview Committee. Additionally, HB 628 calls for the department to issue a disposition on state employees who work for the ski resorts. This was done in an effort that the state employees are taken care of either by a buyout and offered employment by the new managers or some other appropriate manner. The Wildlife and Recreation Committee unanimously recommend this bill as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

Senator F. King is in favor of HB 628.

HB 687, establishing an Alan B. Shepard park commission. Wildlife and Recreation Committee. Vote: 4-0. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: House Bill 687 is a result of several years of effort and interest in converting the Alan B. Shepard homestead in Derry into a park. This endeavor began in 1971 when the legislature created a commission to determine a desirable location for a park to honor New Hampshire's first astronaut. After the commission decided that the Shephard Homestead was the most logical location, legislation was filed to begin the process of converting the homestead lands; however, members of the Alan B. Shepard family were still living in the house at that time and were afraid, despite assurances to the contrary, that they would be forced to leave their home; therefore, activity around this issue stopped. Now there are no longer any family members involved. The house was offered for sale in 1996 and is still on the market. The Derry Heritage Commission feels that this is their best opportunity to pursue this endeavor. House Bill 687 creates a seven member commission to develop plans to establish a state or private park recognizing Alan B. Shepard at the site of the Shepard homestead, in the town of Derry. The legislation will sunset on this project on July 2000. The Wildlife and Recreation Committee are unanimous in its support for this program.

Adopted.

Ordered to third reading.

SB 168-A, making an appropriation to expand state prison facilities. Capital Budget Committee. Vote: 7-0. Ought to pass with amendment, Senator F. King for the committee.

1997-1123s

05/01

Amendment to SB 168-A

Amend the title of the bill by replacing it with the following:

AN ACT requiring the department of corrections to prepare and enter into a lease-purchase agreement with the Berlin Economic Development Council for a medium security correctional facility to be constructed in Berlin and making an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Lease-Purchase Agreement for Medium Security Correctional Facility in Berlin. Amend RSA 21-H by inserting after section 15 the following new section:

21-H:16 Lease-Purchase Agreement for Medium security Correctional Facility in Berlin.

I. The department of corrections, in collaboration with the division of public works, department of transportation, shall move immediately to prepare a lease-purchase agreement between the state and the Berlin economic Development Council (BEDCO). The agreement which shall be submitted to the governor and executive council for review and approval, shall be the instrument under which the state agrees to lease a newly constructed medium security correctional facility in Berlin, with an intent to acquire the facility at or before completion of the lease period.

II. All lease payments under the lease-purchase agreement shall be contingent upon biennial appropriation by the general court, and shall not pledge the full faith and credit of the state. In the event that the department makes consecutive, scheduled lease payments for a term of 20 years, BEDCO will convey unencumbered title to the state, at the state's option, for the consideration of \$1, or, if the state does not exercise this option, this option shall be extended to the city of Berlin. At any time during the amortization of the debt issued to develop the facility, the state may acquire the facility from BEDCO for an amount equal to the scheduled payoff balance of the debt.

III. The total costs to the state of a 500-bed prison facility, including land, architecture, engineering, construction and equipment, shall not exceed the amount of \$27,183,000.

IV. The facility shall be constructed with an available capacity of 500 beds, and infrastructure, administrative and support service space capable of accommodating future expansion to 1,000 beds. Design of the facility will be in compliance with American Correctional Association mandatory standards for adult secure institutions, and shall be approved prior to construction by the department of corrections and the division of public works, department of transportation. Design and construction shall also comply with all relevant state and local codes and regulations.

V. The department shall maintain, preserve, and repair the facility during its occupancy and shall assume all risks for casualty loss or damage to the facility, whether or not covered by insurance. The department shall indemnify BEDCO and the city of Berlin against claims rising from its operation of the facility, whether through self-insurance or through liability insurance coverage.

VI. Development, financing, and construction of the facility, including the selection of all contractors, shall be the responsibility of BEDCO, in accordance with existing statutory provisions governing the authority and operation of the council.

VII. Lease payments to be paid by the department under the lease-purchase agreement shall not exceed the payments that would be paid by the state to bondholders, if the amount of the BEDCO debt were instead to be financed by the state as general obligation debt for a term of 20 years, based on prevailing interest rates and market conditions as of the date of issuance. For purposes of this comparison, the state's costs of maintaining and repairing the facility and indemnifying BEDCO and the city of Berlin against loss are excluded. Total cost to the state of the issuance shall not exceed \$357,000.

VIII. Terms of the lease-purchase agreement shall include provisions to ensure full review and approval of design, and ongoing project oversight by representatives of the division of public works, department of transportation.

IX. Terms of the lease-purchase agreement shall require that construction of the new facility shall be completed in a manner that allows timely closing of the lakes region correctional facility and that construction shall begin by August 1, 1997, and be completed not later than January 1, 1999.

2 Appropriation; Department of Corrections; State Prison Facility. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 1999, to the department of corrections for the purposes of making payments on the lease-purchase agreement for the prison facility to be constructed in the city of Berlin and for the operation of the facility by the department of corrections beginning February 1, 1999. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires the department of corrections to prepare and enter into a lease-purchase agreement with the Berlin Economic Development Council for a medium security correctional facility to be constructed in Berlin.

This bill makes an appropriation of \$1 for fiscal year 1998-1999 to the department to make payments on the agreement and to operate the facility.

SENATOR F. KING: Senate Bill 168 is a final product of two years of study, research and development of a proposal by the city of Berlin and the Berlin Economic Development Council (BEDCO) which is the city's economic development committee. The issue of additional prison space came to light in May of 1995 when the need for more prison beds was discussed in depth. In my district, three towns expressed an interest in hosting such a facility and Berlin began to develop their own plan. On August 25, 1995 the mayor and council voted to support the construction of a new prison as an economic development opportunity for the city and region. It has been said in the discussions that we have had, why would anybody want a prison for economic development? I would say that the answer to that is go up to Berlin and visit the town. You will see that it is a town, a city that at one time was twenty-five thousand people. It is now eleven thousand people. It depends primarily on a large paper mill that has changed ownership several times. The paper making business is a very cyclical business and the town is in need of new opportunities. They see this in that city as an opportunity to have a couple hundred or three hundred good steady paying jobs. Not everyone in town supports it. I would advise my fellow senators that if you want to be politically unpopular in your town, you want to advocate a prison or perhaps a hazardous waste site. They are about equal in political support. The fact is, the city government has always supported this, and the majority of the people in the town do support it. I think that the first thing that the state has to ask is, is there in fact a need for additional prison space in the state? I would say that based on the testimony that we had this week in Finance from Commissioner Brodeur, the Commission of Corrections, there are some things that we know. We know that 1) that the state has a contractual obligation to the city of Laconia to

cease having a prison in Laconia on July 1, 1998. We know that. We know that up on North Main Street in Concord, today, there are four hundred and fifty more inmates in that facility than that facility is designed to accommodate. So right now, today, there are seven hundred and fifty over capacity or there will be as of July 1. In 1992, just to show you that this is not something that just came about recently, the Boston Globe carried an article which said, "An LBA audit which stated that by the year 2000 a new fifty-six million dollar, eight hundred bed prison would be required if alternatives to incarceration were not adopted." Later on today we are going to have a chance to talk about alternatives. "It found that there was a shortage of officers which created a dangerous situation." I would suggest to you today that, that still exists. On a weekend up there at North Main Street, that facility is dramatically understaffed and the inmates are running the facility in lots of cases because there is a staffing shortage. The truth in sentencing law which came into effect in 1982 contributed to the rapid increase in the prison population. This along with the war on drugs and the continuing expansion of sex related crimes, which when convictions come, they no longer... those persons used to come to the county facility years ago when I ran the county facility in Coos county, now most of those sentences are felonies and they go to the state prison. So we have a situation based on the demand of our citizens to lock away these undesirable people. We have an obligation to provide a safe, secure, effective place to put them. This week in Finance, we talked with the people in the education community, the vocational college and the university systems. They are projecting a great increase in the demand for service to their facilities as this population which is going to be booming, the 18, 19 and 20 and 21 age people enter colleges. They have projected a dramatic increase in enrollment. I would point out to you that, that is the age population that finds itself or a percentage of them, find themselves in prison. So there is absolutely no doubt, proven beyond any doubt, that the demand for prisons is going to increase. So the answer is yes, we need a prison. We need it, and we need to get started because these things do just grow out of the ground over night. The next question that the state has to ask is where can you build a prison? I would suggest that very few communities, if any, welcome a prison. We just saw the debate in the paper this week about a facility in Manchester that was talked about providing some services for drug and alcohol related, people with drug and alcohol related problems. The city of Manchester doesn't want that. That facility was looked at before. The state spent a lot money on a study and they went all around the state and they looked at all types of facilities and guess what? TAPE INAUDIBLE Wisconsin and a lot of the rural states like New Hampshire, prisons have been built in the rural areas for the same reasons that the people in Berlin, the majority of the people in Berlin, would be willing to have the prison in Berlin, the need for jobs. That is where the prisons are built. There is a situation when you talk about real estate or building a new facility, whether it is a McDonald's or a prison, the location is the key to the success of where you build these facilities. Berlin has one hundred and thirteen acres. It is under option by the developer, and it is a facility that is on the edge of town, on the edge of the city. It's serviced by sewer and water, and it is very close to the vocational technical college, it is very close to the hospital. It is a wooded site. The building would be situated in such a way that it wouldn't be visible from the highways or the surrounding neighborhood. The city looked at six sites when they developed their plan. This is the only site that is feasible. If

this site is lost, and it will be, because there is someone waiting to grab that piece of land the minute the option expires, Berlin will not be a player in the future because there will not be a place in their city to build a facility. This proposal is very unique. It is a design built differently than New Hampshire has traditionally built their public buildings, although there was a design built, a building at the state hospital, so it has been done, at least once before. It is a process that is very common with industry today. It is getting more common in the public sector. Design built facilities result in lower costs, more rapid development of a proposal, the costs are controlled, and in this case, the state, in their lease, would have full control of the planning and the supervision of the construction of the building. The company that is building this is one of five that originally looked at Berlin with an idea of doing something like this. Dominion is the company that is working with BEDCO to put this proposal together. They are an Oklahoma based company. If they come to New Hampshire to build this they will bring probably four people. All of the rest of the construction will be done by construction companies within the state or within the region. It will be a precast building. This company has three facilities already under construction. It is the way to go and it is the way of the future. I ask that this be processed and sent to the House for consideration. The only thing that I will ask the House to do, if they are not happy with this proposal, which took two years to develop, if this is something that they think is not the way to deal with it, then I would only ask that they come up with an alternative. No more studies, no more delaying. Put a plan on the table that maybe we can accept. Maybe there is a better plan out there. But today, this is the only plan that is available. I ask that the Senate endorse this project and thank you very much.

Recess.

Out of recess.

Question is on the committee amendment.

A roll call was requested by Senator Podles.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, McCarley, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Barnes, J. King, Russman, Danais, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Patenaude, D. Wheeler, Francoeur, Podles.

Yeas: 19 - Nays: 4

Amendment adopted.

Ordered to third reading.

SB 181-FN, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and establishing a committee to study permitting certain prisoners to be sentenced to substance abuse treatment centers. Finance Committee. Vote: 6-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: Senate Bill 181 was referred to Finance from the Public Institutions, Health and Human Services Committee. This bill allows prisoners who are first time non violent offenders to earn good conduct credits, reducing the prisoners minimum sentence. In addition,

the bill requires the Department of Corrections to hire five probation parole officers in fiscal year 1998, and five in 1999, and two in the years thereafter. Finally, the bill establishes a committee to study allowing certain prisoners to be sentenced to substance abuse treatment centers. The Department of Corrections estimates the good time credit component of the bill will affect approximately two hundred ninety-two inmates a year. Assuming marginal costs, food, clothing and so on of four thousand dollars a year, this could result in a decreased cost of approximately \$1,168,000 per year. The Department of Corrections estimates the cost of the probation parole officers to be \$142,500 in fiscal year 1998, and \$465,000 in 1999, and \$530,000 in fiscal year 2000, and \$616,000 in 2001. As previously heard, we know that our prison system is over crowded and it will continue to be overcrowded even if a new prison is built. This is a rational method to allow the system to deal with those nonviolent inmates. It will enable them to transition back into the communities and provide for more supervision for these individuals when they go back into the communities. A great number of inmates in the system today are probationers who have been violated, which means that they haven't done as they had agreed and they have been sent back to the prison. If they had more close supervision, it's believed that some of those violations would not take place. Let us remember that at least ninety-eight percent of the inmates presently locked up on North Main Street, here in Concord, will someday be back on the streets in our cities and towns. Senate Bill 181 allows for more thoughtful transition back to the communities. I recommend passage of SB 181.

SENATOR D. WHEELER: I will be very brief because I gave my speech on this when it came out of Public Institutions, Health and Human Services Committee. I would like to remind the Senate that this is the bill that guts our truth in sentencing laws and would shorten the sentence of many offenders. I would ask that you oppose this bill.

SENATOR JOHNSON: Senator Wheeler, so I will know which way I am going to vote on this, I want to understand that the credits will come off of the minimum of the sentence, is that correct?

SENATOR D. WHEELER: That is correct. Currently, any good time credits come and a number of days are added to the sentence. This would change that.

SENATOR JOHNSON: Thank you.

SENATOR J. KING: This does not ruin Truth in Sentencing. Truth in Sentencing stays just the same as it is for the violent offender. At the present time in the statute, the commissioner has the power to allow these people out. I think that it would be much fairer for everybody if every prisoner who is nonviolent had the same benefits as some are allowed at the present time.

SENATOR HOLLINGWORTH: Senator King, who does the determination of who will be released now? Is there a criteria that is there or is it just that somebody decides that this guy is okay?

Recess.

Senator Barnes in the Chair.

SENATOR J. KING: I don't know how they do it now. I couldn't find out how many had been out under those circumstances, but I do know that they have a criteria that they have to meet before they qualify, and then it is taken off of each month as you go through that term of sentence. It

is similar to what they had many years ago when the good time was given. It does save money, not only that, but, with the money that we save, and it's still a lot of money being saved, we are going to have ten more probation parole officers out in the field. Ten more. So we are not risking a lot of things, we are going to make it so that some of these people who are violating parole at the present time, hopefully, with these ten new officers, we will be able to do better. Hopefully, those are the same officers that deal with people before they go in or get into trouble originally or go to prison; hopefully, if they can work with them then they are going to save people from going into prison. Even that alone is the worthwhile factor in this whole bill. Thank you very much.

SENATOR RUSSMAN: This just doesn't make any sense here. We just had somebody that stands up and they don't vote for the last bill for the new prison because they don't want to spend money, now they stand up and say that they don't want to vote for this because it is going to let people out. Well you can't have it both ways. You either spend money for new prisons or you have to do something with the prison population such as exists in this bill. I would urge you to support this bill.

Recess.

Senator Delahunty in the Chair.

Adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Fraser, Rubens, McCarley, Patenaude, Whipple, Roberge, Blaisdell, J. King, Russman, Danais, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Gordon, Johnson, D. Wheeler, Squires, Pignatelli, Francoeur, Podles, Barnes.

Yeas: 15 - Nays: 8

Adopted.

Ordered to third reading.

SB 196-FN-L, allowing the transmission of simulcast races at grand hotels. Finance Committee. Vote: 5-1. Ought to pass with amendment, Senator F. King for the committee.

1997-1083s

04/02

Amendment to SB 196-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT allowing the transmission of simulcast races at grand hotels.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court finds that:

I. The pari-mutuel industry provides substantial and positive impacts on the economies of the local communities in which racetracks are located, as well as that of the state of New Hampshire. The pari-mutuel facilities pay substantial local property taxes and fees and provide jobs to thousands of New Hampshire residents. The pari-mutuel industry is also a significant part of tourism in the state.

II. The grand hotels in New Hampshire provide substantial and positive impacts on the economies of the local communities in which they are located, as well as that of the state of New Hampshire.

III. The pari-mutuel industry and the grand hotels face substantial competition from various sources. Racetracks in other jurisdictions are assessed lower taxes and receive substantial incentives to support this industry. Large resort hotels in other states have access to state-created amenities to attract year-round guests.

IV. The general court specifically finds that allowing simulcasting at grand hotels may produce benefits for the pari-mutuel industry, the grand hotels, and the state through increased revenues and interest in the pari-mutuel industry.

2 Exception for Simulcast Racing. Amend RSA 179:19, V to read as follows:

V. Licensees shall not allow gambling or wagering on their premises, except if the licensee holds a license under the provisions of RSA 284:22-b.

3 Rulemaking; Pari-Mutuel Commission. Amend RSA 284:12, IV to read as follows:

IV. The sale of pari-mutuel pools as authorized under RSA 284:22 [and], RSA 284:22-a, **and RSA 284:22-b.**

4 New Section; Pari-Mutuel Pools for Simulcasting at Grand Hotels. Amend RSA 284 by inserting after section 22-a the following new section:

284:22-b Pari-Mutuel Pools for Simulcasting at Grand Hotels.

I. In this section:

(a) "State" means each state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(b) "Simulcast" means a grand hotel licensee's receipt of the transmission of races conducted at a racetrack within or outside of the state of New Hampshire and which races are exhibited simultaneously at the grand hotel licensee's facility by television or other means of electronic reproduction with the conduct of such races at the point of origin and on which races the grand hotel licensee sells pari-mutuel pools.

(c) "Grand hotel" means a facility which operated with a minimum of 195 rental units in a single structure available to the public during the calendar year 1996, has restaurant facilities in common ownership, restrooms, and bathing facilities, public telephones, an attached 18-hole golf course in common ownership with the grand hotel facility and adequate parking for patrons.

(d) "Grand hotel licensee" means a grand hotel which operates as a grand hotel in a calendar year and is licensed by the pari-mutuel commission to sell pari-mutuel pools in accordance with RSA 284:22-b.

(e) "Grand hotel licensee facility" means the place within the grand hotel which existed as of January 1, 1997, and is the sole location within the grand hotel where the grand hotel licensee may sell pari-mutuel pools.

II.(a) During calendar years 1997-2009, a grand hotel licensee may sell pari-mutuel pools on simulcasts of dog racing, thoroughbred horse racing, and harness horse racing, provided:

(1) The grand hotel licensee obtains a license from the commission in accordance with RSA 284:22-b, III;

(2) Such sales are within the enclosure of the grand hotel licensee facility;

(3) Wagers are made on simulcast races with the agreement or approval of the racetrack which provides the transmission of the races

to be simulcast, the racetrack which conducts the races to be simulcast, and the racetrack or association entitled to market area consent under the Interstate Horseracing Act of 1978, as amended;

(4) The grand hotel licensee operates as a grand hotel during the calendar year in which it is licensed under this section; and

(5) The grand hotel licensee obtains the consents and approvals set forth in RSA 284:22-b, III and IV.

(b) Notwithstanding subparagraph (a), a grand hotel licensee shall not accept wagers on simulcast dog races for dog races conducted at tracks located outside the state of New Hampshire, if, at the same time of day, live dog racing is being conducted by a licensee within the state of New Hampshire and such licensee has scheduled at least 150 calendar days of live dog racing in such year, unless:

(1) Such grand hotel licensee simulcasts the live dog racing conducted at the same time of day by the licensees located in the state of New Hampshire which are licensed to conduct at least 150 calendar days of live dog racing in such year pursuant to an agreement between the grand hotel licensee and such licensees; or

(2) The licensee located in the state of New Hampshire which is licensed to conduct at least 150 calendar days of live racing in such year is unwilling to allow the grand hotel licensee to simulcast the licensee's races.

(c) Notwithstanding subparagraph (a), a grand hotel licensee shall not accept wagers on simulcast horse races for horse races conducted at tracks located outside the state of New Hampshire, if at the same time of day, live thoroughbred horse racing is being conducted by a licensee within the state of New Hampshire, unless such grand hotel licensee agrees to simulcast such live thoroughbred horse racing on terms and conditions similar to other agreements between such licensee and other licensees within the state of New Hampshire.

III.(a) A grand hotel licensee may sell pari-mutuel pools on simulcast races provided the grand hotel licensee obtains a license from the commission and has received approval from the city, town, unincorporated town, or unorganized place in which the grand hotel is located to accept wagers on simulcast races.

(b) In order to obtain a license, a grand hotel shall apply to the commission. The application shall be signed and sworn to by the person or executive officer of the entity which owns the grand hotel and shall contain the following information:

(1) The full name and address of the person who owns the grand hotel.

(2) If a person other than an individual, the state in which such person is formed and organized.

(3) The names and addresses of officers, directors, shareholders, managers, or partners of the person.

(4) The location of the proposed grand hotel licensee facility.

(5) A statement of assets and liabilities of the person making the application.

(6) Such other information as the commission may require.

(c) The applicant shall immediately inform the commission of any material change or anticipated material change in the information required by subparagraph (b). The commission may require, at the applicant's expense, that any financial information provided to the commission under this section be verified by an audit performed by a certified public accountant. The commission may also require that, as a con-

dition of obtaining a license under this section or continuing to hold a license, the applicant or holder of a license make its books and records available so as to permit the commission to perform such independent auditing or financial analysis as the commission may deem necessary. All expenses incurred by the commission for such auditing or financial analysis shall be paid for by the applicant or holder of the license.

(d) The commission shall issue a license to a grand hotel if it is satisfied that the applicant meets the requirements of RSA 284:22-b, III(b) and (e) and the following conditions are met:

(1) The commission shall not issue a license to a grand hotel to simulcast greyhound dog racing if the proposed grand hotel licensee facility is within a radius of 40 miles of a place where live greyhound racing is already licensed and is being conducted pursuant to RSA 284:16-a.

(2) The commission shall not issue license to a grand hotel to simulcast horse racing if the proposed grand hotel licensee facility is within a radius of 40 miles of a place where live thoroughbred horse racing is already licensed and is being conducted pursuant to RSA 284:16.

(3) The applicant provides the commission with a bond in the amount of \$300,000 conditioned to faithfully make all payments required under this section and to otherwise comply with this section.

(4) The applicant complies with the disclosure requirements to the attorney general in accordance with RSA 284:15-b.

(e) No license shall be issued by the commission to a grand hotel until the city, town, unincorporated town or unorganized place in which the grand hotel is located, at an annual or special town meeting, or through a referendum if a city has, by a majority vote of those voting on the question, approved the issuance of a license to the grand hotel. The form of the question shall be substantially as follows:

Do you approve of [NAME OF GRAND HOTEL] accepting wagers on simulcast dog racing, simulcast thoroughbred horse racing, and simulcast harness horse racing in accordance with RSA 284:22-b on any or all days of the week including Sundays?

(f) Upon issuance of a license, the grand hotel licensee agrees to comply with all rules adopted by the commission and will operate in accordance with RSA 284, where applicable. The grand hotel licensee shall pay the tax due to the state as calculated pursuant to RSA 284:23.

(g) The license issued by the commission to the grand hotel licensee is not assignable or transferrable and shall expire on December 31 of the year in which it is issued, unless revoked by the commission.

IV.(a) A grand hotel licensee may sell pari-mutuel pools for simulcast races for races held at race tracks within or outside the state of New Hampshire in accordance with RSA 284:22-b within the grand hotel licensee facility, or a grand hotel licensee, with the written agreement with the licensee which conducts or transmits the race which is to be simulcast, may sell a common pari-mutuel pool in conjunction with the licensee which conducts or transmits the race which is to be simulcast. In the event of common pools, the licensee which conducts or transmits the race shall pay the tax due to the state under RSA 284:23 for the portion of the common pool actually contributed at the licensee's race track and the grand hotel licensee which simulcasts shall pay the tax due to the state under RSA 284:23 for the portion of the common pool actually contributed at the grand hotel licensee facility.

(b) A grand hotel licensee may sell pari-mutuel pools for simulcast races for races held at racetracks outside the state of New Hampshire

in accordance with RSA 284:22-b within the grand hotel licensee facility, or the grand hotel licensee, with the written agreement with the entity which conducts the race which is to be simulcast, may sell a common pari-mutuel pool in conjunction with the entity which conducts the race which is to be simulcast. In the event of such common pools, the commission shall be in the amount established by the law of the state in which the race to be simulcast is actually conducted, provided, however, the grand hotel licensee shall pay the tax due to the state under RSA 284:23.

V. Each grand hotel licensee shall also pay to the treasurer of the political subdivision in which the grand hotel licensee facility is located for each day of simulcast racing the following fee based upon the aggregate of all pari-mutuel pools handled by the grand hotel licensee on such day:

- (a) Each weekday including Saturday:

<u>Pari-mutuel pool</u>	<u>Fee</u>
Under \$300,000	\$ 300 per day
\$300,000 or more	\$ 350 per day

- (b) Each Sunday:

<u>Pari-mutuel pool</u>	<u>Fee</u>
Under \$350,000	\$ 400 per day
\$350,000 but under \$500,000	\$ 800 per day
\$500,000 or more	\$ 1,200 per day

VI. Any employee or owner of the entity which provides the totalizer system to the grand hotel licensee, and any person responsible for the operation of the electronic reproduction equipment which receives the simulcast shall be prohibited from participating in wagering, directly or indirectly, on simulcast races shown at the grand hotel licensee facility.

VII.(a) RSA 284:22, I, II, III, and IV shall apply according to the type of race on which the simulcast wagers are made, excepting, however, interstate common pools as provided in RSA 284:22-b, IV(b) and that the provisions made for purses made in RSA 284:22, I shall not apply to simulcast races.

(b) Each grand hotel licensee shall contribute the following portion of the amount handled each day by the grand hotel licensee on horse racing (whether harness or thoroughbred) to the licensee which operates the live thoroughbred horse race track located within the state of New Hampshire for the promotion of live horse racing at the track, including supplements to purses of live horse racing and capital improvements of the race track:

<u>Period</u>	<u>Percentage of Handle on Horse Racing by Grand Hotel Licensee</u>
July 1, 1997 through June 30, 1998	1 percent
July 1, 1998 through June 30, 1999	2 percent
July 1, 1999 through June 30, 2000	3 percent
July 1, 2000 and thereafter	4 percent

(c) Each grand hotel licensee shall distribute the sums to be paid under subparagraph (b) to such licensee within 5 business days of the end of each month in which the grand hotel licensee simulcasts horse racing. Each March 31, the grand hotel licensee shall submit a report to the commission, which report shall indicate the amount distributed to

the licensee during each month of the prior calendar year. Each March 31, the licensee shall submit a report to the commission and the fiscal committee, which report shall indicate the amount received by the licensee and the expenditures of such amount by the licensee in the promotion of live horse racing during each month of the prior calendar year.

(d) Each grand hotel licensee shall contribute the following portion of the amount handled each day by the grand hotel licensee on dog racing to the commission for distribution among the licensees which operate live dog racing tracks within the state of New Hampshire for the promotion of live dog racing at such tracks, including supplements to purses of live dog racing and capital improvements at such tracks:

<u>Period</u>	<u>Percentage of Handle on Dog Racing by Grand Hotel Licensee</u>
July 1, 1997 through June 30, 1998	1 percent
July 1, 1998 through June 30, 1999	2 percent
July 1, 1999 through June 30, 2000	3 percent
July 1, 2000 and thereafter	4 percent

(e) Each grand hotel licensee shall distribute the sums to be paid under subparagraph (d) to the commission within 5 business days of the end of each month. The distribution to each licensee shall be determined by multiplying such sum received by the commission by a fraction, the numerator of which shall be the number of live dog racing performances conducted by such licensee in the immediately preceding calendar year and the denominator of which shall be the aggregate number of live dog racing performances conducted by all such licensees in the immediately preceding calendar year. Each March 31, each grant hotel licensee shall submit a report to the commission, which report shall indicate the amount distributed each month during the prior calendar year. Each March 31, each licensee shall submit a report to the commission and the fiscal committee, which report shall indicate the amount received by such licensee in the prior calendar year and the expenditure of such amount by the licensee in the promotion of live dog racing.

VIII. RSA 284:15-b, RSA 284:31, RSA 284:32-a, and RSA 284:39 are deemed applicable to a grand hotel licensee and a grand hotel licensee facility, respectively. Each grand hotel licensee shall submit to the attorney general all information required of other licensees under RSA 284:15-b and shall submit the financial information to the commission as required of other licensees by RSA 284:32-a.

5 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill allows grand hotels in the state of New Hampshire to simulcast races. The bill defines a "grand hotel" to mean a facility which operated with at least 195 rental units in 1996, has restaurant facilities, restrooms, bathing facilities, public telephones, an 18-hole golf course, and adequate parking.

The bill also establishes a fee schedule, which fees are to be paid to the city or town in which the grand hotel is located and a schedule for handle contributions which are to be distributed to the licensees operating live races within the state of New Hampshire. Grand hotel licensees are required to meet all applicable provisions of the laws governing pari-mutuel in the state.

SENATOR F. KING: Senate Bill 196 was referred to the Finance Committee from the Committee on Ways and Means. This bill as amended, allows Grand Hotels in the state of New Hampshire the ability to simulcast races. Senate Bill 196 is a companion bill to SB 216 that was passed earlier. I had the opportunity along with Senator Blaisdell and Senator Danaïs to sit on the study committee on the pari-mutuel issue this summer. Senate Bill 216 recognizes the findings of the study committee that we need to find a way to give some tax relief to the race tracks, these four businesses in our state that are in fact, having a hard time. Part of our mission, part of our direction, I guess that you would say, was to find a way to make SB 216 revenue neutral. Senate Bill 196 is designed to do that. The opponents to the bill say that this is an expansion of gambling, and that is bad, and that is something that we don't do in New Hampshire, we don't expand gambling. I would suggest that this body, last year, on two occasions, passed a \$5 scratch ticket and then Power Ball. That apparently, wasn't an expansion of gambling. If that is true, then I would say that adding one or two simulcast outlets to the pari-mutuel industry is just an enhancement like Power Ball and like \$5 scratch tickets and soon to be perhaps \$10 scratch tickets are an enhancement. The revenue of SB 196 will not now cover the costs of the changes made in SB 216. They represent about one million dollars to one million one hundred thousand dollars in additional revenue to the state. Seventy-five to 80 percent of the daily bet will be paid back to the bettors. About 3 percent of the total daily bet will be paid to the state. Three hundred dollars will go to the town or city and this simulcasting can not be expanded into these communities unless there is a referendum vote, either a town meeting or at a special meeting of the town. An average of 4 percent of the total bet will be returned to the race tracks, the three dog tracks and the one horse track, to help them increase their purses to make them a more viable racing operation that has always been the intent of New Hampshire. The bill will probably only impact, initially, one facility. It looks like that facility, based on a study that was done, it would return about one million twenty five-thousand dollars or one million one hundred and forty-five thousand dollars to the state. One of the significant increases would be the fact that it would become a year round operation and the rooms and meals increase to the state would be over half a million dollars. This is not a casino bill, and not a video lottery bill. It is an enhancement of pari-mutuel, and that is all that it is. It was intended originally, and it still is intended, to help offset a portion of the cost of SB 216. The committee recommends ought to pass.

SENATOR JOHNSON: Senator King, isn't it true that in the last six to seven years, that the revenue from racing has completely turned over? It was live racing versus simulcast and now simulcast is the much larger percentage of the revenue over live racing?

SENATOR F. KING: I believe that you are correct.

SENATOR JOHNSON: Thank you.

SENATOR SQUIRES: I rise with respect to offer my view and it is a little different. I hadn't realized the language problems here. I am on record here as opposed to an expansion of gambling. I now need to add my opinion that I am opposed to enhanced gambling. Thank you.

Question is on the committee amendment.

Paired votes: Senators Cohen and Larsen.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Rubens.

The following Senators voted Yes: F. King, Johnson, Fraser, McCarley, Whipple, Roberge, Blaisdell, Podles, J. King, Russman, Danais, Delahunty.

The following Senators voted No: Gordon, Rubens, Patenaude, D. Wheeler, Squires, Pignatelli, Francoeur, Barnes, K. Wheeler, Hollingworth.

Yeas: 12 - Nays: 10

Amendment adopted.

Ordered to third reading.

SB 202-FN-A-L, relative to the certification of teachers, high school graduation examinations and making an appropriation therefor, school building aid, and establishing a committee to study school discipline and manifest educational hardship. Finance Committee. Vote: 5-1. Ought to pass with amendment, Senator Fraser for the committee.

1997-1104s

03/01

Amendment to SB 202-FN-A-LOCAL

Amend the bill by replacing sections 12-13 with the following:

12 Contest to Name Academic Diploma. There shall be a contest held to name the high school academic diploma under RSA 193-C:6-a. The state board and legislative oversight committee shall choose the name of the academic diploma from among the entries. All public school pupils shall be eligible to enter such contest.

13 Appropriation. The sum of \$1 is appropriated to the department of education for the biennium ending June 30, 1999, for the development of and the pilot program for the high school graduation assessment program.

AMENDED ANALYSIS

This bill:

I. Revises certain provisions relative to the teacher certification process.

II. Establishes a high school graduation assessment program, and makes an appropriation for such program.

III. Revises the provisions relative to the amount of annual grants for school building aid.

Establishes a committee to study issues relating to school discipline and manifest educational hardship.

SENATOR FRASER: Mr. President, SB 202 was referred to Finance from the Education Committee. The bill provides teachers, supervisors and administrators to have a subject matter assessment as a prerequisite to certification and recertification after January 1, 1999. It extends the time that a school board might take to hold a hearing and issue the results of the hearing based on the teacher not being renominated or reelected. It extends the time that the state board of education may take to review an issue or the results of the review of a decision for a teacher not being renominated. It also removes the ability to hold a hearing on the decision at the request of either party. Senate Bill 202 removes the arbitration and binding resolution as an alternative related to teacher evaluation by a school district. The high school graduation assessment program establishes a diploma program that will indicate proficiency on

a level with graduates in top performing nations. It establishes a pilot program implementation date of the year 2000. A contest to name the diploma will be held. Senate Bill 202 makes changes to building aid and it adds a provision to make the costs of new construction and renovations of buildings suitable for year round use, eligible for 75 percent funding if the district maintains a year round school program. It adds 3 percent to existing percentages for construction or renovations excluding that for year round use if the district uses generic architectural plans and the district can prove that it saved 3 percent on the total project cost as a result of such plans. The bill also establishes a committee to study school discipline and manifest educational hardship. The bill as amended in the Senate Finance Committee removes a one thousand dollar prize for the contest as well as removing the three hundred thousand dollars appropriated to fund the pilot program. The committee has replaced the appropriation with \$1. The vote coming out of the committee, Mr. President, was 5-1 ought to pass.

SENATOR HOLLINGWORTH: While I applaud the sponsor of this legislation because we are all looking for ways in which we can enhance education and make it better for our communities. I have to say that unfortunately, I think that this Senate and this senator, could have done a lot better. Unfortunately, this bill, as it stands now, has no money in it at all. It would simply be a 28-a case. We were told that it would cost three hundred thousand dollars to have the academic diploma drafted and then there would be thirty thousand dollars to forty thousand dollars a year to upgrade that because once you have given the test you have to change that each year. That means that would be a direct cost back onto our communities. There is also no funding and no mechanism for the certification of teachers. That is one area of the bill that I find a problem with. The teachers are now certified, they now have to meet standards and nothing in this bill TAPE INAUDIBLE forward. So I oppose this legislation and would ask you to vote inexpedient to legislate.

SENATOR MCCARLEY: Senator Fraser, Senator Hollingworth just referenced the money part of this. I guess that I am curious, Senator Fraser, based on the Finance Committee's amendment, we have language in this bill that tells the commissioner what they will develop and implement and what have you, but we are not giving them a penny to do that, is that correct?

SENATOR FRASER: That is correct.

SENATOR MCCARLEY: So do I assume, because I am a little bit newer at this than you, that if this was to go through as is, the department will indeed have to develop this test at whatever cost it is to the department within their budget currently under consideration right now?

SENATOR FRASER: That is also correct.

SENATOR MCCARLEY: Thank you, Senator Fraser.

SENATOR RUBENS: Briefly responding to a couple of points. Senate Bill 202 embodies the truth that tough sensitive action is needed to improve quality accountability and return on investment in our present investment in schools. With respect to the certification process, know that the school boards cannot, by themselves, individually or even as a group, alter the means by which we certify teachers. That requires state action. Presently, we certify teachers without testing them. We are among only 12 states that do not require basic competency test in math, reading and

writing and subject area for teachers. That cannot be done by the school boards either singularly or as a group. With respect to the costs of the tests, I am seeking an agreement, to the Finance Committee amendment leaving \$1 in, such that it allows an opportunity to find the funding to fund the state graduation assessment. It is very similar to the New York State Regents Examination, which is a high standards type examination taken by all high school students. Four states are now using high standards graduation tests from high school. New York State Regents now being applicable to all kids graduating from high school in the state. I am going to work with the Department of Education to see if money can be reallocated, considerably more money than is in the budget to the state Department of Education for this year. Secondly, there should be funding for this from the Building Aid proposals that you see in the bill. The bill as presently written, will cause a pretty significant saving, although unprojectable, both to the state budget and to local school district budgets as a result of replacing new buildings with year round buildings at local option. So my sense is, that the money can be found from within state revenues. Thank you very much.

Question is on the committee amendment.

Paired votes: Senators F. King and Larsen.

A roll call was requested by Senator Hollingworth.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

The following Senators voted No: McCarley, Whipple, Blaisdell, Pignatelli, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 14 - Nays: 8

Amendment adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Russman moved that the Rules of the Senate be so far suspended to allow a committee report not previously advertised in the calendar on SB 73.

Adopted by the necessary 2/3 vote.

SB 73-FN, providing that telephone and cable communications poles and lines be subject to the property tax. Ways and Means Committee. Ought to pass with amendment. Senator Danais for the committee.

1997-1166s

08/01

Amendment to SB 73-FN

Amend the title of the bill by replacing it with the following:

AN ACT providing that telecommunications poles and lines be subject to the property tax.

Amend the bill by replacing all after the enacting clause with the following:
1 Purpose.

I. The general court finds that:

(a) Property and equipment employed in the transmission of telecommunications services is a unique and fundamental part of this state's economy and infrastructure.

(b) The transmission of telecommunications signals within this state is integrated with telecommunications facilities located without this state.

(c) The regulation of telecommunications services involves unique provisions of both state and federal law.

(d) The taxation of telecommunications property, equipment and services must be carefully coordinated in order to ensure the proper and orderly development and improvement of telecommunications services within all parts of this state.

II. Accordingly, in the exercise of authority under part II, article 6 of the constitution of New Hampshire, the general court concludes that property and equipment employed in the transmission of telecommunications services constitutes a distinct class of property that is appropriately subject to taxation as such by the state, to help defray the public charges of government, as provided in this act.

2 New Section; Telecommunications Poles and Wires. Amend RSA 72 by inserting after section 8 the following new section:

72:8-a Telecommunications Poles and Wires.

I. Poles and wires that are:

(a) Owned by a person operating as a public utility as defined in RSA 362:2; and

(b) Are employed in the transmission of telephone or cable television service shall be taxed as real estate in the town in which such property or any part of it is situated.

II. Notwithstanding any other provision of this chapter, the following property shall be exempt from taxation as real estate:

(a) Any whole or partial interest in poles; and

(b) Wires employed in the transmission of communications services that are subject to the tax imposed under RSA 82-A, and owned by a retailer as that term is defined in RSA 82-A:2, X.

3 Reference Included. Amend RSA 72:9 to read as follows:

72:9 Where Taxable. If the property described in RSA 72:8 *or* 72:8-a shall be situated in or extend into more than one town [said], *the* property shall be taxed in each town according to the value of that part lying within its limits.

4 Reference Included. Amend RSA 72:10 to read as follows:

72:10 Limitation. Nothing in RSA 72:8, 72:8-a, or [9] 72:9 shall in any way change or affect the laws relating to the taxation of public utilities and other property owned by municipal corporations.

5 Effective Date. This act shall take effect April 1, 1997.

AMENDED ANALYSIS

This bill provides that telecommunications poles and lines are subject to the property tax in the municipality in which the property is located, unless such property is a whole or partial interest in poles or wires employer in the transmission of communications services that are taxed under the communications services tax, and owned by a retailer as defined for the purposes of the communications services tax.

SENATOR DANAIS: Senate Bill 73 providing that telephone and cable communications poles and lines be subject to the property tax in the municipality in which the property is located. Senate Bill 73 was recommitteed to the Ways and Means Committee. The Ways and Means Committee have passed a committee amendment by a majority of 4 - 2. Basically the amendment brought forward by Senator Gordon, states that all poles and wires shall be taxed, but it exempts those entities that are

subject to the tax now imposed under RSA 82-A, more commonly known as the "telecommunications tax." The Ways and Means Committee wish that you accept the motion of ought to pass as amended.

Amendment adopted.

Senator Gordon offered a floor amendment.

1997-1170s

08/02

Floor Amendment to SB 73-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Telecommunications Poles and Wires. Amend RSA 72 by inserting after section 8 the following new section:

72:8-a Telecommunications Poles and Wires.

I. Poles and wires that are:

(a) Owned by a person operating as a public utility as defined in RSA 362:2; and

(b) Are employed in the transmission of telephone or cable television service shall be taxed as real estate in the town in which such property or any part of it is situated.

II. Notwithstanding any other provision of this chapter, any whole or partial interest in poles and wires employed in the transmission of communications services that are subject to the tax imposed under RSA 82-A, and owned by a retailer as that term is defined in RSA 82-A:2, X, shall be exempt from taxation as real estate.

2 Reference Included. Amend RSA 72:9 to read as follows:

72:9 Where Taxable. If the property described in RSA 72:8 *or 72:8-a* shall be situated in or extend into more than one town [~~said~~], *the* property shall be taxed in each town according to the value of that part lying within its limits.

3 Reference Included. Amend RSA 72:10 to read as follows:

72:10 Limitation. Nothing in RSA 72:8, *72:8-a*, or [9] *72:9* shall in any way change or affect the laws relating to the taxation of public utilities and other property owned by municipal corporations.

4 Effective Date. This act shall take effect April 1, 1997.

AMENDED ANALYSIS

This bill provides that telecommunications poles and lines are subject to the property tax in the municipality in which the property is located, unless such property is a whole or partial interest in poles or wires employer in the transmission of communications services that are taxed under the communications services tax, and owned by a retailer as defined for the purposes of the communications services tax.

SENATOR GORDON: I offer a subsequent amendment. I think that in order to do that I have to briefly explain what the prior amendment did and then explain why this amendment would be appropriate. The prior amendment that we have already adopted, which was put forth as the committee amendment, was in response to a very difficult question. I guess the best way to explain it is, the question that we face, so that everybody will understand it is, I am a lawyer, and as you know, occasionally I do trial work and go to court. The lawyers that hang around the court know that the way you frame questions, sometimes, often affects the results of your case. In this particular case, what has happened is that we have been presented with an issue that has been framed. The way that the original issue was framed was, which do you prefer? Do you

prefer to tax the telephone companies and pass those costs onto the consumers, perhaps in the form of higher telephone bills or cable bills, or would you prefer, on the other hand, to put at risk the revenues that the municipalities are receiving from the electric companies? As you can see, there is really no good answer, there is no good choice for us in this case, because in either event, it is not a good decision. We pass costs onto the constituents either way. The amendment that has been adopted by the committee... the other thing that I think is probably more important to realize is that when you are due to go to court, even though there are two sides and each side tries to win, ultimately, the best case and the best result is when justice is done and it is not a question of winning and losing. That is what the amendment attempts to do, and that is to prevent having a situation where there is a winner and a loser, but instead to come up with a fair and just result. The original amendment, what it intends to do, is to solve a problem in regard to equal protection by spreading the property tax on poles, wires, and other types of equipment, onto other utilities such as telephone companies and cable companies and indicating that as far as the state of New Hampshire is concerned, all that property is taxable. At the same time, what it does is to recognize that certain companies are already, on the behalf of the state of New Hampshire, collecting a telecommunications service tax. Because they are doing that, they are already providing a service to New Hampshire and in providing that service, we are now imposing an additional burden, and so that they should be exempt from paying the property tax so that it provides an exemption for those companies. What it actually intends to do, is to be neutral. To basically keep the status quo. That is what the original amendment attempted to do. I thank the Senate for adopting that amendment. It was pointed out that in adopting that amendment, that two things were in place, 1) there was a place where there wasn't clarity in the language. It was clarity in the first amendment as to what poles and wires would be exempt and under what circumstance. So there is, in this amendment, starting on line 14 through 17, a paragraph that makes it very clear that only poles, wires and equipment, that are subject to the telecommunications service tax is in fact, exempt from the property tax. The second change that was made, in the original amendment, there was some language that identified a particular interest. Basically, it had particular findings made by the legislature in regard to the telecommunications industry and its importance to the state. There were many people who felt that that might prejudice the court, if this were subsequently be decided in court. So it was agreed that perhaps that language should come out so that it didn't bias the decision of the court. So this amendment clarifies the language and I think that it is a substantial improvement on the original amendment that you adopted. To go just one step further, it is the intent to offer a resolution after this. The one thing that I would also like to say is that I don't think that there is a senator in this room, I know that there isn't a senator in this room, that wants to in any way, jeopardize the tax base of our communities. I am sure that all of the senators will do whatever has to be done to make sure that they do not lose the tax revenues that they are currently receiving. I know that I am committed to that. If we could not come up with a solution such as this, to maintain the status quo, I would be voting for the so-called Whipple amendment. Something to protect our communities. There is no question that I would be doing that. I want to protect my communities and I will do whatever it takes. On the other hand, I don't want to penalize somebody else for doing that. So we want

to make sure that I, in fact we, pass this amendment, it also passes constitutional muster or will pass constitutional muster. So we will be offering... my suggestion is, that after we pass this amendment, that we table the bill and send a resolution over to the court asking the relevant questions. I will offer that resolution subsequently. Thank you very much for the time to speak, Mr. President. I would be happy to answer any questions if there are any.

SENATOR F. KING: Senator Gordon, just so that I understand what we are doing, we are going to be passing this agreed upon amendment, which I would agree that the version that we have here is better than the original amendment, but what I am hearing is, in the event that this goes to the Supreme Court, and they in fact rule against the communities, and again put at risk the millions of dollars that we are talking about, you are saying that this Senate, before we get out of here in a year from now, or more or less, will reconsider this issue or the waiving of the rules or whatever it takes, so that we will have an opportunity to again, perhaps, consider the Whipple, King amendment if that is necessary? Is that true?

SENATOR GORDON: I can't speak for the Senate as a whole, obviously, but I know that there is no way, I, as an individual Senator, would want to put my communities at risk. I wouldn't be taking this approach if I thought, in fact, I was going to be. I know that what ever it takes, we will make sure that our communities aren't at risk. Right now, if this amendment wasn't on the table and the only amendment was on the table, I would be voting for the Whipple amendment myself. The other thing that I need to point out to everyone, however, which is a very important consideration, is that this bill has only seen the light of day on the Senate side of the wall, so we are adopting a Senate policy. This will still have to go over to the House of Representatives. They may view this issue differently. Everybody should be aware of that at the time.

SENATOR HOLLINGWORTH: Senator Gordon, I guess my question is this, bearing in mind what you have just said about this having been heard only in the Senate, is there a way that instead of putting the bill on the table, that it would be sent to the House, we could work on the resolution, because I have just seen it, and there is one section in it that I have a minor problem with, that I would like to see if we could work with the language? Then we could pass the question to the court based on that or how is the process going to work because I am not clear?

SENATOR GORDON: The resolution will be offered today for the purpose of sending it over to the court and getting it over there. That would be from the Senate alone. The alternative to that is that we could send it to the House, they could deal with it and decide what they want to do and then we could send a Joint Resolution at some point in time. I think that in terms of the resolution, and the sense of urgency, I am concerned about the House's sense of urgency, frankly. I will tell you why. They have a bill that deals with similar subject matter in the House. They have elected to re-refer their bill in the House. I am just concerned that they may not have the same appreciation for the sense of urgency that the Senate has, and we might be well advised to send this over now from the Senate.

SENATOR RUSSMAN: The question is along the same line. It would seem as though we ought to perhaps pass your amendment and then send it over to the House, rather than to the Supreme Court, only in that it is

going to prolong the debate, and certainly we would not have the input that the House would necessarily have to give, so-to-speak, in terms of our own Senate Bill. So would it not be wiser really, to perhaps send it over there and let the House do its work and have a public hearing and so on and so forth before it gets sent over there. They may end up having questions themselves that may have to get referred to the State Supreme Court and this way here, it could all be done in one sitting.

SENATOR GORDON: In response, I think that it is a valid concern and you make good points, the issue is, we don't know how long that they will deliberate before they take some action. There is a possibility that the court can get back in this session and respond, if it gets over there now. I am afraid that if the House dallies with it for some period of time, that we will have to come back for a special session to deal with the issue later. I think that it is a matter of personal preference as to which you would rather do. You will have the opportunity to vote on that, I guess. If I could just make one other point, that is that I just want to make sure that this is clear to everybody on the record, is that there have been tax abatements, as you know that have been filed by certain utilities, electric utilities, in particular that have caused the concern that has lead up to the importance of this legislation. They have filed those abatements for the tax year of 1996. No matter what happens here, this legislation isn't going to affect those abatements for 1996. We need to be focused in on making sure that we don't have a recurring problem for the future years. So we do have a little bit of time, but not a lot.

SENATOR WHIPPLE: Originally, we had the bill as presented to Ways and Means and it lost 5 - 1, inexpedient to legislate. Then Senator Fred King, who is chairman of Ways and Means worked the bill over and we came up with an acceptable amendment between us. It went back to Ways and Means and this time it was inexpedient to legislate 4 - 2, so we put it on the table, and we have had a lot of discussion between the senators and the lobbyists, public and selectmen, and the Municipal Association. There has been a lot discussion in the press, and there has been a lot of inaccurate information flying around, probably a little from both sides. But now we have gotten the first Senator Gordon amendment out of the way. We all agree that we are not going to use that one. We all agreed, the Municipal Association, the people who supported that position, that we would not support the original Gordon amendment. Senator Gordon has come up with a second amendment that does satisfy the Municipal Association, not what they would want, but it does satisfy them somewhat. Consequently, if this passes, I will not offer the King-Whipple amendment, which we fully intended to offer and put it up for a roll call vote. We will not do that now if this passes. But for the record, we believe, and as Senator Gordon has said, that when this goes over to the Supreme Court, if they refuse to offer an opinion or if they rule against the municipalities, the cities and towns, and take away their revenue source that they have used for so many years, that it would come back to the Senate and it will come back in a timely fashion. To comment on what Senator Fred King said, when he said a year, I don't think that was the intent of Senator Gordon and myself, that it would be a year that it would be this session. Even if we had to ask the Senate to come back for a special session to protect this revenue source, because there is \$73.5 million at stake of city and town money. Now the 1996 abatements have already come in. Not only are there abatements, but there are exemptions. They are going to try and exempt from one hundred twenty-one

towns, all electric revenue. Not only for the pole and the wires, but for the generation, especially at Seabrook. I don't know the figure... Senator Hollingworth says that it is twenty-nine million dollars. It is a very, very important bill. Hopefully this will be able to go to the court and get a timely answer and we can come back in and do what is right. I think that is what Senator Gordon and Fred King and myself and the rest of us who supported this second amendment plan on doing. Thank you.

SENATOR HOLLINGWORTH: I am going to be brief. I just want to be sure that everyone knows that I am supporting the amendment that we have before us now, because I believe that we need to find an answer to the problem. I believe that each of you in this room shares the same concern as I do about the communities. I have a small concern about how we pose the question to the courts. I am not a lawyer, and I know that Senator Gordon and Senator Russman are. I don't know if anyone else in the room is, but I think that it is very important that before we vote on the resolution that we have a moment in time, and I am hoping that will happen, in which we look at that question, because I do find that in looking at that one question, there seems to be some misstatement, and I want to make it clear as I vote on this, that I am voting on this amendment with the understanding that we will have an opportunity to look at the resolution before it is sent to the court and before we vote on it in this body today.

SENATOR RUBENS: I have received a number of letters from a number of towns in my district. Once the selectmen and officials received an explanation as to the bill, they began to question the motivations. We have to unmix a potential for a desire for a tax increase that would result in monthly fee increases for someone who has cable television and one telephone in a house in a range of \$50, \$60, \$70, \$80 a year. Once that was explained, there was serious doubt about the validity of the constitutional claims with respect to equal protection, those officials relieve me of the pressure to pass the bill as originally introduced. They did not want to be a party to increasing people's monthly phone bills. Secondly, if the original proposal were to pass, were to be considered again in this Senate, I would continue to oppose it even if it were a constitutional problem, I would be searching for some other means by which we could protect the existing property tax revenues for the cities and towns. The reason being, that we would end up, if we passed the original proposal, creating another type of claim for the constitutional act of equal protection by virtue of one type of telecommunications service being delivered by satellite or microwave being entirely untaxed and a similar service, precisely the same end product being delivered by wires and being subject to real-estate tax. So I think that we would be putting ourselves right back in the same dilemma if we attempted to provide the fix embodied in the original version of SB 73; therefore, I agree with Senator Gordon, we should fix the problem if the Supreme Court tells us that there is one, but we should not do it, absolutely not do it by increasing people's phone bills and cable television bills.

SENATOR WHIPPLE: Senator Rubens, would you believe that I have heard these issues about how much it was going to cost for cable and how much it was going to cost for telephones? I have heard all of these figures thrown around and they seem sort of high to me. So last night when I went back to my city of Claremont, I said that I was going to find who is telling the truth. So I called up the manager of the local cable company who wrote a nice article in the paper, nice headlines about me, I

questioned his accuracy. I asked him how many cable customers he had in Claremont? He told me that he had four thousand. I told him that the tax on the cable lines will be ten thousand dollars and you have it in the paper that it will be \$4 a month increase; however, if it is only at ten thousand dollars a year and you are splitting it with four thousand customers, that is \$2.50 a year or twenty-one cents a month. So when you, Senator Rubens, brought up \$70 and \$80, that is more of what I believe is in accurate figures. If you really check what they are, I think that the rhetoric that has been coming out of some areas is absolutely incorrect and caused so much confusion, that I believe, that as we go down the road and take a little longer time, that the truth will prevail, and we will find out what the real costs are. Thank you.

SENATOR RUBENS: The estimates that I provided are a range, I recognize myself that there has been exaggeration on both sides, but even at the low end range, even in cities like your own, where there is a high concentration of users per mile of cable and cable wire; therefore, a low impact per user. That is going to vary in other communities. If you have a community with more miles of cable and fewer users per mile, you are going to have a higher impact. Even in your case, when you add the telephone plus the cable, you are talking about a fee increase, which is in essence, some types of tax increase on cable and telephone users and I oppose that.

SENATOR WHIPPLE: Would you believe, Senator Rubens, that in Claremont, the cable company can't increase their fee anyway until they come to the city council and ask them for permission too? In Claremont, if they did come and ask us for permission to increase it, we would tell them no, you can't pass that fee along; however, we will give you credit for your ten thousand dollars in property taxes toward your franchise fee of thirty-five thousand dollars and bring it down to twenty-five dollars so that there is no cost. I believe that most of these communities would do the same thing, because they don't want to pass any costs on to the cable users either.

SENATOR RUBENS: You may be fortunate to have that ratio of numbers in your city when you get to telephone service costs, these are obviously provable costs the telephone companies would go before the PUC, they would file for a rate increase, and they would demonstrate the cost increase they are from and possibly even collecting back fee increases possibly resulting in a greater effect per year on someone's phone bill during the period of time that they were collecting retroactive tax increases. So there would clearly be an impact on people's monthly cost of living. I can tell you that people are resisting that. The people of the state are resisting that.

SENATOR COHEN: Senator Whipple, would you believe, that I am speaking for a number of Senators in stating something that I believe must be said before the end of this discussion, which is the fact, that we have all gotten many different phone calls generated by the cable company which owns the medium which has transmitted the message. They have manipulated figures and they have conducted a fear campaign, raising fear among elderly people and they have presented one side of the picture. I just thought that you might like to know that there are many Senators who feel a little bit angered that our constituents have been cynically manipulated by this fear campaign, and that this is unusual, and there is concern among the Senators, would you believe?

SENATOR WHIPPLE: I would believe that, Senator.

Senator Barnes moved the question.

Adopted.

Floor amendment adopted.

Senator Gordon moved to have **SB 73-FN**, providing that telephone and cable communications poles and lines be subject to the property tax, laid on the table.

Adopted.

LAID ON THE TABLE

SB 73-FN, providing that telephone and cable communications poles and lines be subject to the property tax.

Senator F. King is in opposition to the laid on the table motion on SB 73.

Senator Gordon offered the following resolution:

1997 SESSION

97-1138
08/01

SENATE RESOLUTION 4

A RESOLUTION requesting an opinion of the justices on the constitutionality of an amendment to SB 73-FN.

SPONSORS: Sen. Gordon, Dist 2

COMMITTEE: Ways and Means

ANALYSIS

This senate resolution requests an opinion of the justices concerning the constitutionality of a proposed amendment to SB 73-FN.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord One Thousand Nine Hundred and
Ninety-Seven*

A RESOLUTION requesting an opinion of the justices on the constitutionality of an amendment to SB 73-FN.

Whereas, there is presently pending before the senate SB 73-FN, "An act providing that telephone and cable communications poles and lines be subject to the property tax"; and

Whereas, an amendment to SB 73-FN (document # 1997-1170s) has been proposed in the senate providing that "poles and wires that are: (a) owned by a person operating as a public utility as defined in RSA 362:2; and (b) are employed in the transmission of telephone or cable television service shall be taxed as real estate in the town in which such property or any part of it is situated;" and

Whereas, the amendment further provides for an exemption from property tax for "... (a) any whole or partial interest in poles; and (b) wires employed in the transmission of communications services that are subject to the tax imposed under RSA 82-A, and owned by a retailer as that term is defined in RSA 82-A:2, X;" and

Whereas, it has come to the attention of the senate that numerous utility poles are jointly-owned by telephone utilities and electric utilities; however, telephone and cable wires and conduits are not jointly-owned with electric utilities; and

Whereas, the interest in any poles, wires, and conduits owned by electric utilities is subject to property tax under RSA 72:8; and

Whereas, a question has been raised that the adoption of the amendment, including the exemption referred to above, may be in violation of the "proportional and reasonable" requirements of article 5, part II of the New Hampshire constitution or may create an impermissible classification of property in violation of article 6, part II of the New Hampshire constitution; now, therefore, be it

Resolved by the Senate:

That the Justices of the Supreme Court be respectfully requested to give their opinion upon the following important questions of law:

Would the enactment of the amendment to SB 73-FN (document # 1997-1170s):

1. Result in a violation of the "proportional and reasonable" requirements of article 5, part II of the New Hampshire constitution?

2. Create an impermissible classification of property in violation of article 6, part II of the New Hampshire constitution?

That the clerk of the senate transmit copies of this resolution and copies of the amendment to SB 73-FN (document # 1997-1170s) to the justices of the New Hampshire Supreme Court.

Recess.

Out of recess.

SENATOR GORDON: I would like to offer Senate Resolution 4, Mr. President. This is a follow-up to our action on SB 73 which has been tabled at this point. This is a resolution that would send questions to the Supreme Court for an advisory opinion as to the constitutionality of an exemption for those companies that are collecting the telecommunications service tax from property tax. The most relevant part of this, you will find it at the bottom of the resolution. It begins on line 28, which are the questions to be asked, "Would the enactment of the amendment to SB 73-FN (document # 1997-1170s):

1. Result in a violation of the "proportional and reasonable" requirements of article 5, part II of the New Hampshire constitution? Create an impermissible classification of property in violation of article 6, part II of the New Hampshire constitution?" Those are the issues that I suspect that you are aware of have been raised in regard to the property tax abatements by the electric companies. I would further ask that the clerk amend this document on line three, it refers to (document # 1997-1127s), I believe that the amendment that we actually adopted or finally adopted, was amendment #1997-1170s. I would also ask the clerk to amend line 28 in the same manner and change the document number from 1127 to 1170. Further, there has been discussion since the resolution was offered, in regard to the text that appears on line 12, 13, 14 and 15. Which draws a conclusion as to what the legislature intended in 1990. Although I suspect that everyone in the room has their opinion as to what the legislature intended in 1990, we all can have, I guess, our own opinion as to what the intent was and the intent of the individual legislatures. As part of the resolution sending it to court, and again, in an effort not to prejudice the court in its decision making, I would ask that the text on lines 12 through 15 be deleted from the resolution. Thank you very much, Mr. President.

SENATOR DANAIS: Just for a point of clarification. It may be advantageous for Senator Gordon, page two, line two to also amend it to put the correct document in which would be 1170.

SENATOR GORDON: I would like to offer that additional change on my amendment. That the Senate clerk amends line two on page two to place in the correct document number.

SENATOR F. KING: As we all know, this has been a very long and contentious few days for us over this issue, and I want to personally thank my former office mate, Senator Gordon, for persevering in a task that I don't think that he volunteered to do, and I just thank him for hanging in there and getting us to this point today.

Adopted.

TAKEN OFF THE TABLE

Senator Francoeur moved to have **HB 249**, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations, taken off the table.

Adopted.

HB 249, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations. Committee report of ought to pass.

SENATOR BARNES: House Bill 249, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations. Though code enforcement officers are currently able to request that an entity cease and desist, current law provides that a sheriff must serve the official cease and desist order that has full legal effect. In the amended version adopted by the House, "Personal service may be made by a building inspector, code enforcement officer, zoning administrator, sheriff, deputy sheriff, local police officer, or constable." Time is of the essence when issuing cease and desist orders. By allowing persons other than sheriffs to issue cease and desist orders, towns will not only be more efficient but also more frugal, as hiring a sheriff to issue a cease and desist order is costly. The Senate Public Affairs Committee recommends this bill ought to pass.

Adopted.

Senator Francoeur offered a floor amendment.

1997-0909s

09/08

Floor Amendment to HB 249

Amend the title of the bill by replacing it with the following:

AN ACT clarifying the authority of local police officers to serve cease and desist orders against planning and zoning violations.

Amend RSA 676:17-a, II as inserted by section 1 of the bill by replacing it with the following:

II. The order shall be served upon the record owner of the property or the record owner's agent, and upon the person to whom taxes are assessed for the property, if other than the owner, and upon any occupying tenant of the property, and upon any other person known by the enforcing officer to exercise control over the premises in violation, and upon all persons holding mortgages upon such property as recorded in the office of the register of deeds, in the same manner provided for service of a summons in a civil action in district court. *Personal service may be made by a sheriff, deputy sheriff, local police officer, or*

constable. If the owner is unknown or cannot be found, the order shall be served by posting it upon the property and by 4 weeks' publication in a newspaper in general circulation in the municipality.

AMENDED ANALYSIS

This bill clarifies the authority of local police officers to serve cease and desist orders against planning and zoning violations.

SENATOR FRANCOEUR: This amendment would allow a sheriff, deputy sheriff, local police officer or a constable to serve a cease and desist order. A couple of weeks ago in the Senate when this bill was reported out, there were questions on who could serve this order. In conference with our Senate legal counsel, it became through a letter that Bernie Waugh from the Municipal Association originally only wanted the language that is currently before you in this floor amendment. There was also another part that I will briefly read here, "There is another justification for not allowing zoning or planning officials to serve cease and desist orders, the local officials have an interest in the matter. Sheriffs are currently prohibited by RSA 104:7 from serving papers if they have an interest in the case or if they are parties to the case." I would recommend adoption of the floor amendment.

SENATOR WHIPPLE: This bill as originally passed by the committee, allowed building inspectors and code enforcement officers as well as zoning administrators to serve these papers. This is a local issue and it should be left up to the local people and local control. We should let them make the decision as to who will serve the papers. They know the issue and they know the reason for the papers needing to be served. Some of these issues are simply somebody has too much wood piled in his yard or they have a junk car or they have an overflowing rubbish container that they won't take care of. Why should we get the police or the sheriff or somebody involved in that, going into these neighborhoods when it is simply a matter of the building inspector going by and saying "look, here is the paper, you have got to clean it up?" Then they know that they have to do it. It saves money, time, and it keeps the police out of it. If there is a situation where there is danger and we should have a sheriff or we should have a police officer serve these papers, the local zoning administrator knows those concerns, knows the people who they are dealing with, and they can give the determination to give it to the police officer or to the sheriff, but in most of these cases, there is no need for that level of authority to go into the neighborhood. It is much easier to let the building inspector or the zoning administrator or the code enforcement officer to go and serve the paper, and it will save a lot money. It will stop from paying the sheriff money and it will stop from having to take a police officer, who should be out fighting crime and doing real work, instead of doing this paper delivery. I would hope that we would defeat this floor amendment and then vote ought to pass on the committee amendment. Thank you.

Floor amendment adopted.

Ordered to third reading.

RECONSIDERATION

Senator Patenaude, having voted with the prevailing side, moved reconsideration of HB 344, whereby we ordered it to third reading.

SENATOR PATENAUDE: This is a bill that we passed last time that we met. I have talked to the sponsor and to the Public Affairs Committee,

and we have agreed that we should add another sentence that was omitted to the bill. We would like the opportunity to ask for reconsideration. If that is approved, we would ask you to recommit the bill to the Public Affairs Committee. Public Affairs unanimously agreed that this would be the right thing to do.

HB 344, relative to planning board procedures on plats.

Adopted.

MOTION TO RECOMMIT

Senator Patenaude moved to have **HB 344**, relative to planning board procedures on plats, recommitted to committee.

Adopted.

HB 344 is recommitted to the Public Affairs Committee.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 297, relative to the cutting of vegetation by utilities on private property.

HB 351, limiting the total of tax deferrals for the elderly and disabled on a particular property to a percentage of its equity value.

HB 380, relative to the sale of town-owned property.

HB 698, relative to the oil discharge and disposal cleanup fund, the fuel oil discharge cleanup fund, and the motor oil discharge cleanup fund.

HB 769, relative to unemployment compensation.

Senator Barnes moved adoption.

Adopted.

ANNOUNCEMENTS

SENATOR D. WHEELER (RULE #44): I rise to correct the record regarding a member's statement, judging my and perhaps other senators' motives for voting against SB 168. This is the second personal attack in the last two sessions. I am sorry to have to bring this up, but the record must be corrected. The fact that I voted against SB 181, the bill gutting truth in sentencing, and against SB 168, the Berlin plan, is no way inconsistent. This does not mean that, I, and I expect my other Senate colleagues who voted the same way, are in any way against providing the needed prison space that was suggested by the member. I just oppose the Berlin plan and would be very much in favor of the right expansion plan. I hope in the future, this will be a place where issues are debated and not personalities. Thank you, Mr. President.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, April 30, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

CACR 18, Relating to: references to the governor in the constitution. Providing that: all references to the governor in the constitution shall be gender neutral.

Question is on ordering to third reading.

A 3/5 vote is necessary.

Adopted unanimously.

Ordered to third reading.

Third Reading and Final Passage

SB 54-FN, relative to gainful occupation of disability beneficiaries in the New Hampshire retirement system.

SB 68-FN-L, providing health care coverage for the spouse and dependents of any group I or group II retirement system member who is killed in the line of duty.

HB 117, relative to Persian Gulf War bonus payments.

SB 168-A, requiring the department of corrections to prepare and enter into a lease-purchase agreement with the Berlin Economic Development Council for a medium security correctional facility to be constructed in Berlin and making an appropriation therefor.

SB 172, making various changes to the workers' compensation law.

SB 181-FN, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and establishing a committee to study permitting certain prisoners to be sentenced to substance abuse treatment centers.

SB 196-FN-L, allowing the transmission of simulcast races at grand hotels.

SB 202-FN-A-L, relative to the certification of teachers, high school graduation examinations and making an appropriation therefor, school building aid, and establishing a committee to study school discipline and manifest educational hardship.

SB 207-FN, relative to a digital signature act.

SB 209-FN, establishing a residential care pilot program and providing for the funding of such program.

HB 215, relative to taxation of discretionary easements.

SB 216-FN-A, relative to pari-mutuel racing and taxes on pari-mutuel pools.

HB 216, relative to municipal budgets.

HB 249, clarifying the authority of certain officials and law enforcement officers to serve cease and desist orders against planning and zoning violations.

HB 252, relative to posting of bylaws in advance of any town election.

HB 254, relative to shared tenant telecommunication services.

HB 255, establishing a committee to study access to dental care for low-income, uninsured, and underinsured persons.

HB 264, relative to technical committees advising the director of the office of information technology management on technical issues.

HB 285, relative to the official name of the "Old Man of the Mountain."

HB 328-L, relative to hour limitations on voting.

HB 332, repealing the law which prohibits an entity which conducts horse or dog racing from employing a member of the general court.

HB 336, clarifying certain definitions relating to dams.

HB 370, updating and making technical corrections in certain banking laws.

HB 381, relative to public recreation and park areas in municipalities.

HB 390, relative to quarantine of captive wildlife.

HB 398, allowing Delta Dental Plan of New Hampshire to issue plans to individuals.

HB 404, establishing a committee to study providing universal catastrophic health coverage by establishing a statewide catastrophic risk pool.

HB 415, establishing a nighttime speed limit for OHRVs traveling on the frozen surface of Back Lake in the town of Pittsburg.

HB 434, relative to milk products of sheep and goats and milk producer permits and allowing the commissioner of the department of health and human services to impose certain administrative fines.

HB 498-FN-A, recognizing the New Hampshire Farm Museum in Milton, New Hampshire as the first official state of New Hampshire farm museum.

HB 516-FN, increasing the fuel oil discharge cleanup fund fee.

HB 540, establishing a committee to study ways in which state agencies can be encouraged to assist small businesses to develop practices that comply with state law.

HB 628, relative to an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, establishing a committee to develop a proposal and review responses, and requiring review of any agreement or contract by the capital budget overview committee.

HB 650, relative to limited liability companies.

HB 687, establishing an Alan B. Shepard park commission.

HB 809, establishing a committee to study the feasibility of bringing the New England Patriots to New Hampshire.

HCR 11, relative to the preservation and revitalization of New Hampshire's rail-based corridors of commerce.

Senator J. King moved that the Senate now adjourn until Wednesday, April 30, 1997 at 10:00 a.m.

Adopted.

Adjournment.

April 30, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. Richard C. Devor, Senate Guest Chaplain.

Let us bow our hearts in prayer: Infinite God, whose nature is compassion and whose will is always justice, invited or not, aware of You or not, You are present in us, and with us, and for us. For the gift of Your spirit in each of our lives and collectively in this body, we give You thanks. Empower us with openness and trust, and respect and reconciliation towards one another in all of our debates and differences. Fill us with courage to act justly and to reach out with a compassion that transcends justice so that we may act on behalf of all, the weak as well as the strong, the powerless as well as the powerful, the oppressed as well as the favored. Dislodge us from complacency. May what is done here serve You and not ourselves, that Your will may be done on earth even this day.

Amen

Senator Pignatelli led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Senator Delahunty is excused for the day.

Senator Barnes in the Chair.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 144, establishing a committee to study certain issues regarding Silver Lake in the towns of Belmont and Tilton.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 144, establishing a committee to study certain issues regarding Silver Lake in the towns of Belmont and Tilton.

Senator Russman moved to concur.

Adopted.

COMMITTEE REPORTS

HB 483, relative to regulation of securities. Banks Committee. Vote: 3-0. Ought to pass, Senator J. King for the committee.

SENATOR J. KING: House Bill 483 was drafted at the request of the Bureau of Securities Regulations and the secretary of state's office. The first section of HB 483 redefines "branch office" as it applies to "broker dealers" and "investment advisors." Further, this bill allows for limited licensing of Canadian broker dealers and their agents conducting business with Canadian citizens who reside in New Hampshire. It provides the Bureau of Securities Regulation the authority to deny, suspend or revoke the license of any person who violates the security laws and makes technical corrections throughout the NH RSA 421:B. The Banks Committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 713, relative to the names of foreign limited partnerships, and eliminating an annual notice requirement for limited liability partnerships. Banks Committee. Vote: 3-0. Ought to pass, Senator Johnson for the committee.

SENATOR JOHNSON: Current New Hampshire law prohibits the names of limited partnerships from being included in the name of the limited partnership. This bill allows foreign limited partnerships to have names that contain the name of a limited partner recognizing that the limited partnership is following the regulations of the home, state or country. The bill also changes an annual notice for limited liability partnerships to an annual fee. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 714, deleting certain duties of the secretary of state relative to the state treasurer's insurance bond and accounts of bonds issued by the state treasurer. Banks Committee. Vote: 3-0. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: House Bill 714 is the result of an audit of the secretary of state's office by the legislative budget assistant. The audit found that the secretary of state was not complying with two laws. The first required the secretary of state to hold a two hundred thousand dollar bond from the treasurer. The second required the secretary of state to maintain records of all of the bonds issued by the treasurer. In both cases, the duties would be better performed by the treasurer, since that office regularly deals with bonds and has all of the necessary records. This bill transfers the authority over the bond to the treasurer and eliminates the need for the secretary of state to keep records of bonds issued. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 368, establishing the honorary position of artist laureate of the state of New Hampshire. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass with amendment, Senator Podles for the committee.

1997-1134s

05/08

Amendment to HB 368

Amend RSA 3-D:1 as inserted by section 1 of the bill by replacing it with the following:

3-D:1 Position Established. There is hereby established the position of artist laureate for the state. The governor, with the advice and consent of the executive council, shall appoint the artist laureate. The person so honored shall be a resident of this state and shall serve for a 2-year term. There shall be no restriction on reappointment.

Amend RSA 3-D:2 as inserted by section 1 of the bill by replacing it with the following:

3-D:2 Recommendations. Prior to the appointment of an artist laureate, the New Hampshire council on the arts shall submit to the governor and the executive council the names of persons whom they deem to be worthy of the honorary position. Upon the expiration of the term of the artist laureate, as provided in RSA 3-D:1, the council shall again submit to the governor and the executive council a name or names for a successor.

SENATOR PODLES: HB 368, which establishes the honorary position of artist, is modeled after RSA 3-A:1 - 3 enacted in 1967 which established the position of poet laureate of the state of New Hampshire. Though poet laureates are appointed every five years, the prime sponsor of HB 368 sought to reduce the five year appointment to a two year appointment so that more artists could be honored. Establishing the position of artist laureate is an appropriate means to honor those who contribute to New Hampshire's rich artistic heritage. The committee amendment deletes the terms "which shall be coterminous with the term of governor" on lines' 7-8 of the bill and changes the term "commission" on line 12 of the bill to read "council." No one opposed the bill at the hearing. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 527, classifying smoke bombs as permissible fireworks. Executive Departments and Administration Committee. Vote: 5-1. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: House Bill 527 includes smoke bombs in the definition of permissible fireworks, thereby requiring smoke bombs to be regulated under RSA 160-B. Though the sale and use of smoke bombs are prohibited under RSA 644:16-B, smoke balls do not fall under the definition of fireworks and as such are not covered anywhere under existing statute. By bringing smoke balls under the definition of permissible fireworks, the Permissible Fireworks Review Committee will be able to study the composition and effects of smoke balls and perhaps outlaw smoke balls in future legislation. The committee recommends this bill ought to pass.

Senator Podles moved to have **HB 527**, classifying smoke bombs as permissible fireworks, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 527, classifying smoke bombs as permissible fireworks.

HJR 4, urging the United States Congress and the Federal Energy Regulatory Commission to cooperate with state plans to restructure the electric utility industry. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: On May 21, 1996, New Hampshire became the first state in the nation to enact electric utility restructuring legislation. House Joint Resolution 4 reminds Congress, the Federal Energy Regulatory Commission (FERC) and other regulatory agencies, that federal law relative to promoting electric retail competition and restructuring the electric industry is ambiguous and may be an impediment when implementing restructuring programs. House Joint Resolution 4 urges the United States Congress and FERC to cooperate with and support state plans to restructure the electric utility industry and promote retail competition. No one opposed the bill at the hearing. The committee recommends unanimously that this bill ought to pass.

Adopted.

Ordered to third reading.

HB 261, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations. Insurance Committee. Vote: 4-0. Ought to pass, Senator Squires for the committee.

SENATOR SQUIRES: House Bill 261 recodifies the statutes relating to Blue Cross Blue Shield. Currently, there are three separate sections that relate to Blue Cross Blue Shield and this bill would combine those into one section. The only change deals with the level of financial reserves that Blue Cross Blue Shield must maintain. That level is raised from 16 percent to 20 percent. The committee recommends this bill as ought to pass.

SENATOR LARSEN: Senator Squires, this as you have explained, is a recodification and apparently putting into the new section, the nonprofit health service corporations. On page six, however, there is language relating, for example, to part-time employees, requiring them to cover part-time employees as if they were full time employees. Is all of that currently in statute?

SENATOR SQUIRES: I cannot answer that.

SENATOR LARSEN: As you recall, we had a bill that required the state to cover the benefits for state employees that were part-time and yet we did not pass that. However, on page six, we require this health service corporation to provide part-time benefits. I think that it is a good idea, but I would hate to pass any new language. I am not particularly comfortable that HB 261 does not include any new language. Did you hear in committee that was the case?

SENATOR SQUIRES: I can respond for the committee. There was absolutely no disagreement about the bill as presented. It was presented to us as essentially a housekeeping measure combining all of these different sections, increasing the statutory reserves. There was no disagreement at all.

SENATOR LARSEN: But you are not aware of whether the benefits for the part-time employees is new language or not?

SENATOR SQUIRES: I cannot answer that question.

SENATOR LARSEN: Senator Danaïs, my question relates to page six of HB 261. It is a substantial enough bill that I would like to be comfortable that in recodifying we are not creating new language. As I pointed out, we currently do not require the state to cover part-time employees for benefits unless we can get it under contract negotiations, but in this language, we are requiring this health service corporation to include insurance benefits for part-time employees. I would hate to, through this new recodification, include new language without realizing it. It does cover significant issues from everything to scalp prosthesis to maternity benefits. I would like to be comfortable that there is absolutely no new language in here.

SENATOR DANAIS: Senator Larsen, this was not brought up in the public hearing, which I wasn't there because Senate Finance was meeting and I am also on that committee. If you would like to have a better clarification on that, I don't have a problem with you tabling the bill to get you a clarification. It is a legitimate question.

Recess.

Out of recess.

Senator Blaisdell moved to have **HB 261**, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 261, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations.

HB 624, subjecting certain payments made to public employees upon resignation, discharge, or retirement to the right-to-know law. Public Affairs Committee. Vote: 7-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: This bill makes payments made in addition to regular salary and accrued vacation, sick, or other leave paid to an employee of a public body upon the employee's resignation, discharge, or retirement, subject to the right-to-know law. This bill arose out of a situation in Hampton wherein the town manager was paid one hundred and twenty-five thousand dollars to vacate the position immediately. Evidently the decision may have been made in haste, and the accounting methods used to calculate the severance sum was not readily available. Under **HB 624**, concerned citizens will be able to discern what information was used to calculate the severance pay. No one opposed the bill at the hearing. The committee recommends unanimously this bill ought to pass.

Adopted.

Ordered to thlrđ reading.

HCR 10, urging recognition of the contributions made by the Irish potato famine immigrants and observation of the 150th anniversary of the Great Hunger. Public Affairs Committee. Vote: 6-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: This house concurrent resolution urges recognition of the contributions made by the Irish potato famine immigrants and observation of the one hundred and fiftieth anniversary of the Great Hunger. In an article by UNH Professor James Farrell, it reads: "Between 1845 and 1852, the period of the Great Famine in Ireland, about a million and a half human beings died of starvation, typhus, dysentery, or other famine related diseases. More than two million people left Ireland in what many viewed, not a pioneering adventure, but as a forced exile from their home. Most of those two million emigrants went to North America." Many of those two million emigrants arrived in the greater Boston area and in New Hampshire only to face overt bigotry and disgust aimed particularly at their Catholic religion. Despite Irish persecution, however, the Irish have grown to become respected members of the communities throughout New Hampshire and the nation. According to the provisions of the resolution, four hundred and seven copies of the resolution will be mailed to school districts and public libraries through the state. At thirty-two cents per parcel, the cost of mailing the resolution and cover letter totals \$130.24. With an outside printing cost of 10 cents per page, the total cost to print and mail is approximately one hundred and seventy dollars. The committee recommends this bill ought to pass.

Adopted.

Ordered to thlrđ reading.

HB 448, relative to the trust fund for the prevention of child abuse and neglect. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator Podles for the committee.

1997-1159s

04/01

Amendment to HB 448

Amend RSA 169-C:39-d, I as inserted by section 5 of the bill by replacing subparagraphs (e) and (f) with the following:

(e) ***One representative of children, youth, and families appointed by the commissioner of the department of health and human services [or a designee].***

(f) ***One representative of public health appointed by the commissioner of the department of health and human services. One member, who shall be knowledgeable about one of the areas designated in subparagraph (a), appointed by the governor.***

SENATOR PODLES: Mr. President, HB 448 changes the name of "The Children's Trust Fund for the Prevention of Child Abuse and Neglect" to "The New Hampshire's Children's Trust Fund." This fund was established during the Sununu administration and has made a difference in many children's lives. The funding shall be made available to a wide range of state and community based family resource programs to prevent child abuse. House Bill 448 further amends the membership of the trust fund board. It specified that the percentage for the designation for administrative expense to be 10 percent. Lastly, it amends RSA 169-C:39-f, I relative to selection of grantees, statewide or community prevention council that intends to use its grants for community or statewide prevention programs. The Public Institutions, Health and Human Services Committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HJR 7, urging the United States Congress and the Veterans Administration to maintain adequate health care services for New Hampshire veterans. Public Institutions, Health and Human Services Committee. Vote: 5-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: House Joint Resolution 7 urges the United States Congress to maintain adequate health care benefits for New Hampshire's veterans. A fifty-two million dollar federal budget reduction for veteran's administration health care could result in a dramatic loss of services and benefits. New Hampshire is also subject to a redistribution of funds based upon recent demographic trends. We should recognize the need for the Veteran's Administration Medical Center in Manchester as a necessary organization to meet the health care needs of so many New Hampshire veterans. This bill urges congress to distribute available funds from the implementation of the Veteran's Integrated Service Network so that the accessibility and quality benefits to the New Hampshire's veterans population will not be adversely impacted. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 208-L, relative to the status of roads laid out by the courts of common pleas or the county commissioners. Transportation Committee. Vote: 4-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUD: House Bill 208 satisfied municipalities' concerns regarding roads that have been laid out by the court of common pleas or the county commissioners. It specifically declares that these roads, if they had not been maintained for a period of at least 20 years shall become town owned TAPE INAUDIBLE without prior to the town being incorporated and are not regularly maintained by the counties. Some municipalities have assumed maintenance for these roads despite there being no legal standing to do so. This bill provides a mechanism for towns to obtain legal possession of these roads. The Transportation Committee unanimously recommended this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 471, relative to the method of refund of the road toll paid by private school bus companies. Transportation Committee. Vote: 5-0. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: House Bill 471 responds to an apparent oversight in legislation passed last session. House Bill 1134 was enacted to give privately owned school bus companies the ability to apply directly to the Department of Safety to receive their road toll tax refund. However, the legislature also implemented the International Fuel Tax Agreement that essentially negated the provisions contained in HB 1134. House Bill 471 simply addresses the oversight and reinstates the ability of private school bus companies to apply directly to safety for their refunds. The Transportation Committee unanimously recommends ought to pass.

Adopted.

Ordered to third reading.

HB 486, relative to a study of a certain portion of Route 3A. Transportation Committee. Vote: 5-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-1146s
01/09

Amendment to HB 486

Amend the title of the bill by replacing it with the following:

AN ACT relative to a study of a certain portion of Route 3A and relative to establishing a committee on the feasibility of installing rumble strips.

Amend the bill by replacing section 2 with the following:

2 Committee Established. There is established a committee to study the feasibility of installing rumble strips.

3 Membership and Compensation.

I.(a) The members of the committee shall be as follows:

(1) Three members of the senate, or designees, appointed by the president of the senate.

(2) Three members of the house of representatives, appointed by the speaker of the house.

(b) The committee shall solicit input from the commissioner of transportation and the commissioner of safety.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

4 Duties. The committee shall study the feasibility of installing rumble strips.

5 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

7 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the commissioners of transportation and safety, or their designees, to conduct a study of a certain portion of Route 3A.

This bill also establishes a committee to study the feasibility of installing rumble strips before toll booths.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 486 requires the Department of Transportation to conduct a study in conjunction with the Department of Safety to examine the potential safety improvements on route 3A from Manchester to Concord. House Bill 486 grew out of a concern for school children along this section of highway given the increased volume of truck traffic. The department has tried several measures in recent years to transfer truck traffic back onto the interstate, but these attempts have failed. They now recognize the need to build minimal shoulders along this stretch of 3A and want to examine other potential safety improvements. They will bring back their recommendations in the form of legislation next year. The amendment creates a committee to study and examine the possibility of installing rumble strips along various locations of state highways. The Transportation Committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 652, establishing a committee to study certification of police and fire dispatchers. Transportation Committee. Ought to pass with amendment, Senator Russman for the committee.

1997-1154s

09/08

Amendment to HB 652

Amend the title of the bill by replacing it with the following:

AN ACT establishing a house committee to study certification of police and fire dispatchers.

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. The committee shall consist of 7 members of the house of representatives, appointed by the speaker of the house.

Amend section 4 of the bill by inserting after paragraph XI the following new paragraph:

XII. The New Hampshire Emergency Dispatchers Association.

AMENDED ANALYSIS

This bill establishes a house committee to study certification of police and fire dispatchers.

SENATOR RUSSMAN: As a practical matter, this bill would give an opportunity for a study to come up with a certification process for dispatchers and people in emergency situations so that they can have a standardization of what they do when there is an emergency. Some of the testimony that we heard shows that there is a remarkable problem with people in the 911 situations and responding to emergencies. So this, hopefully, will go a long way towards solving that problem.

Amendment adopted.

Ordered to third reading.

HB 662, revising the laws relative to the use of dealer plates. Vote: 5-0 with one abstention. Transportation Committee. Ought to pass with amendment, Senator Gordon for the committee.

1997-1149s

09/01

Amendment to HB 662

Amend RSA 261:111, II as inserted by section 10 of the bill by replacing it with the following:

II. Motor vehicles owned by the dealer which are designed for and engaged in the day-to-day business activities of the dealership, including but not limited to the transportation of freight or merchandise, such as auto parts delivery trucks, shall not be so registered. Wreckers, ramp trucks, and service trucks may be registered if incidental to the business activities of the dealership and marked not for hire.

Amend the bill by replacing section 22 with the following:

22 Effective Date.

I. Sections 2-4, 6, 10-14, 17, 20 and 21 of this act shall take effect upon its passage.

The remainder of this act shall take effect January 1, 1998.

SENATOR GORDON: House Bill 662 is a result of a lot of hard work by many different parties in the New Hampshire motor vehicle industry. Our laws regulating dealers were established many years ago and were badly in need of repair. House Bill 662 fixes many problems. In a nutshell, HB 662 raises the bar for dealers in New Hampshire and at the same time, is both consumer friendly and business friendly. For example, it is consumer friendly because the dealer surety bond has been expanded to include additional protections for the consumer in the event that the dealer is financially unable to provide remuneration. House Bill 662 is business friendly because in order to operate as a dealer and use dealer plates, all smaller motor vehicle businesses will no longer be required to be principally engaged in selling motor vehicles. One of the keys to the bill, is that it is a direct result of a corporate effort between the Department of Safety and the people that they regulate, namely the New Hampshire Automobile Dealer's Association, the New Hampshire Marine Dealer's Association, and the New Hampshire Motor Transport Association. House Bill 662 also removes a requirement that dealer plates be purchased in sets of three. This provides the dealer with greater flexibility to purchase as many or few plates as needed. The committee amendment makes sections II, III and IV effective upon passage and changes the language in section X of the bill to provide for the use of dealer plates for wreckers and service trucks if they are used for incidental business activities and are not used for hire. The Transportation Committee recommends HB 662 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senator F. King offered the following resolution:

1997 SESSION

97-1139

03/08

SENATE RESOLUTION

SR 5

A RESOLUTION urging the Federal Energy Regulatory Commission (FERC) to issue timely approvals for a proposed natural gas pipeline.

SPONSORS: Sen. F. King, Dist 1

COMMITTEE:

ANALYSIS

This senate resolution urges the Federal Energy Regulatory Commission (FERC) to issue timely approvals for a natural gas pipeline proposed by Portland Natural Gas Transmission System.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord One Thousand Nine Hundred
and Ninety-Seven*

A RESOLUTION urging the Federal Energy Regulatory Commission (FERC) to issue timely approvals for a proposed natural gas pipeline.

Whereas, Portland Natural Gas Transmission System, (PNGTS), proposes to construct approximately 292 miles of new natural gas pipeline (including laterals) running from the Quebec-New Hampshire border at Pittsburg, New Hampshire to Portland, Maine and then south to Dracut, Massachusetts, with approximately 108 miles to be situated in New Hampshire; and

Whereas, the proposed northern route passes through 12 Coos County municipalities and the proposed southern route to be built with Maritimes & Northeast Pipeline, L.L.C. (M&N) passes through 8 Rockingham County municipalities; and

Whereas, PNGTS has signed binding agreements with Wausau Papers and Northern Utilities (the seacoast New Hampshire natural gas company) to provide natural gas transportation capacity for an in-service date of November 1, 1998; and

Whereas, Wausau Papers needs PNGTS, particularly the northern route, to meet its in-service date in order to facilitate its Clean Air Act compliance plan, and Northern Utilities needs PNGTS, particularly the northern route, to meet its in-service date in order to replace lost capacity for its 25,000 New Hampshire customers; and

Whereas, PNGTS is responsible for the permitting, design, and construction of the northern route, and the design and construction of the southern route, and is jointly responsible, with M&N, for the permitting of the southern route; and

Whereas, various permit and certificate applications are pending with the New Hampshire Site Evaluation Committee and the Federal Energy Regulatory Commission (FERC), the timely processing of which is critical to assure construction in time for an in-service date of November 1, 1998 on PNGTS; and

Whereas, on April 18, 1997, the FERC issued its PNGTS/Maritimes, Phase I Joint Facilities Project - Draft Environmental Impact Statement,

Docket No. CP97-238-000, for the 66.1 miles of the proposed route between Dracut, Massachusetts and Wells, Maine (including the entire proposed route in Rockingham County); and

Whereas, the FERC has reported that it is considering the proposed route from Wells to Westbrook, Maine and from Westbrook to Pittsburg, New Hampshire (including the entire proposed route in Coos County) in the Draft Environmental Impact Statement that is under preparation for the PNGTS project; and

Whereas, PNGTS has requested the FERC to issue its approvals by August 31, 1997, to facilitate construction for an in-service date of November 1, 1998, without which, PNGTS can not timely meet the needs of Wausau and Northern Utilities; now, therefore, be it

Resolved by the Senate:

That the FERC is respectfully requested to take all reasonable measures to assure the timely processing of PNGTS' applications (including the issuance of a Draft Environmental Impact Statement for the route between Wells, Maine and Pittsburg, New Hampshire by May 15, 1997) to provide for an issuance of necessary approvals on or about August 31, 1997; and

That the senate clerk prepare appropriate copies of this resolution for service upon Her Excellency, Governor C. Jeanne Shaheen, each member of the New Hampshire congressional delegation, and Elizabeth Anne Moler, Chair of the Federal Energy Regulatory Commission.

SENATOR F. KING: The resolution is being passed out at this time. I offer this today on behalf of the 12 communities in Coos county. There is a proposed major pipeline construction project being considered to bring natural gas from Canada down into Southern New England. This project is about a three hundred million dollar project, paid for with private company money. It is about one hundred and eight million dollars of new construction, new taxable property for 12 communities in Coos county. It is a project that is going to provide natural gas to the two largest employers in Coos county, the paper mills in Groveton and in Berlin. By converting from bunker C diesel fuel and fuel oil to natural gas, they will be using a much cleaner fuel with less environmental problems. It will enable them to get clean air credits which will reduce their need to make some substantial investments and more pollution control. It will provide a much increased tax base. It will enable some more land to be opened up in Berlin for industrial development where natural gas would be attractive. This resolution, as it is proposed, is simply asking the Federal Energy Regulatory Commission to act as rapidly as they can to reach a resolution on the question that is before them. This pipeline will follow about 85 percent of an existing power right-of-way. It does require the power company to negotiate new easements with all of the land owners. There are some problems in the town of Shelburne, that the state Site Evaluation Committee will have to be making a decision on. Like any project, there are some landowners that are having some difficulty with working out the arrangements with the company, but I would say that without exception that town governments support this project and the vast majority of the people support it. So I would ask you to consider voting favorably on this resolution. Thank you.

Adopted.

Report of Committee on Enrolled Bills

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills

HB 251, reclassifying a portion of North Main Street in the town of Farmington, a portion of Passaconaway Road in the town of Albany and a portion of Osgood Road/Mason Road in the town of Milford.

HB 392, changing references to the "BOCA Basic Building Code" to "BOCA National Building Code" and relative to incorporating certain codes by reference.

HB 216, relative to municipal budgets.

HB 390, relative to quarantine of captive wildlife.

SB 81, relative to the administration of estates.

Senator Barnes moved adoption.

Adopted.

RESOLUTION

Senator Johnson moved that all Senate Bills Laid on the Table with the exception of those sent to the Court for an opinion of the Justices be by this resolution be made Inexpedient to Legislate.

Adopted.

SB 2, relative to the responsibilities of members of the clergy as mandated reporters and providing for privileged communications under the child protection act.

SB 78-FN-L, changing the school foundation aid distribution formula.

SB 141, establishing a committee to study the risks posed to children by the unsafe storage and use of firearms.

SB 174-FN-A-L, requiring the state to fully fund the Augenblick formula by FY 1999.

SB 204-FN-A-L, increasing the tobacco tax and specifying uses for the revenue.

SB 214-FN, requiring marine science courses to be offered at Hampton Beach state park.

SB 215-FN-L, increasing the cigarette tax and appropriating funds for education.

ANNOUNCEMENTS

RESOLUTION

Senator Johnson moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, May 6, 1997 at 10:00 a.m.

Adopted.

Late Session

Third Reading and Final Passage

HB 208-L, relative to the status of roads laid out by the courts of common pleas or the county commissioners.

HB 368, establishing the honorary position of artist laureate of the state of New Hampshire.

HB 448, relative to the trust fund for the prevention of child abuse and neglect.

HB 471, relative to the method of refund of the road toll paid by private school bus companies.

HB 483, relative to regulation of securities.

HB 486, relative to a study of a certain portion of Route 3A.

HB 624, subjecting certain payments made to public employees upon resignation, discharge, or retirement to the right-to-know law.

HB 652, establishing a committee to study certification of police and fire dispatchers.

HB 662, revising the laws relative to the use of dealer plates.

HB 713, relative to the names of foreign limited partnerships, and eliminating an annual notice requirement for limited liability partnerships.

HB 714, deleting certain duties of the secretary of state relative to the state treasurer's insurance bond and accounts of bonds issued by the state treasurer.

HJR 4, urging the United States Congress and the Federal Energy Regulatory Commission to cooperate with state plans to restructure the electric utility industry.

HJR 7, urging the United States Congress and the Veterans Administration to maintain adequate health care services for New Hampshire veterans.

HCR 10, urging recognition of the contributions made by the Irish potato famine immigrants and observation of the 150th anniversary of the Great Hunger.

Senator J. King moved that the Senate now adjourn until Tuesday, May 6, 1997 at 10:00 a.m.

Adopted.

Adjournment.

May 6, 1997

The Senate met at 10:00 a.m..

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

It sounds like a fine day in the Senate today. I don't know about politicians, but in clergy, great minds are always accompanied by large ears, whereas narrow minds are generally matched by big mouths. The capacity to speak well, articulately, convincingly and effectively have no purpose or value whatsoever unless it is superseded by a determination and commitment to listen so deeply and thoroughly and carefully that you actually begin to hear. So speak carefully, here today, but not before you are sure that your hearing aid is turned onto high.

Let us pray:

Great creator and Lord of both our ear drums and our tongues, give us deep fresh wisdom this day as we employ these two mighty weapons, our mouths and our ears in the service of the people that we have been chosen to lead. Let us do battle today, in such a way that the result is wholeness not just victory.

Amen

Senator Francoeur led the Pledge of Allegiance.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 255, establishing a committee to study access to dental care for low-income, uninsured, and underinsured persons.

HB 264, relative to technical committees advising the director of the office of information technology management on technical issues.

HB 315-L, expanding the financial powers of village districts and repealing state law governing the water department of the town of Lisbon to accommodate the transfer of the duties of the board of water commissioners to the board of selectmen adopted by the Lisbon town meeting.

HB 516-FN, increasing the fuel oil discharge cleanup fund fee.

HB 628, relative to an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, establishing a committee to develop a proposal and review responses, and requiring review of any agreement or contract by the capital budget overview committee.

HB 704, relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture bottled water.

HB 706, establishing a commission on animal damage control to review the fish and game laws relating to damage by game birds and game.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 85, making technical changes in laws relative to the probate courts.

SB 123, relative to shellfish harvesting areas.

SB 164, establishing a committee to study the establishment of a registry for intellectual property.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from Senate:

HB 254, relative to shared tenant telecommunication services. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Godfrey Howard
	Donald White
	Cliff Below
	Jeb Bradley

SENATE ACCEDES TO HOUSE REQUEST

HB 254, relative to shared tenant telecommunication services. Senator Johnson moved to accede to the House request and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Johnson, Whipple, Patenaude

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 125, relative to the right of entry upon lands for surveying.

SB 134, establishing a committee to study the certificate of need board and RSA 151-C

SB 151, relative to final orders on appeals of decisions of zoning boards of adjustment.

SJR 3, urging the United States Congress to adopt a constitutional amendment for environmental rights.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 49-FN, clarifying certain procedures under the lead paint law.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 49-FN, clarifying certain procedures under the lead paint law.
Senator Roberge moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 72, relative to the New Hampshire life and health guaranty association, changing the order of distribution for policy holders and claimants in the case of insurer insolvency and repealing the law relative to the interstate insurance receivership compact.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 72, relative to the New Hampshire life and health guaranty association, changing the order of distribution for policy holders and claimants in the case of insurer insolvency and repealing the law relative to the interstate insurance receivership compact.
Senator Danais moved to concur.

Adopted.

COMMITTEE REPORTS

HB 169, prohibiting former state legislators from serving as lobbyists for 2 years after leaving the legislature. Internal Affairs Committee. Vote: 5-1. Inexpedient to legislate, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 169 would have prevented the legislators from working as lobbyists for two years after leaving the legislature. In the opinion of the majority of the committee, this bill would have discriminated against a class of citizens who serve the state for only one hundred dollars a year. By telling them that they can't take that job

to support yourself, the committee felt that it was unfair and unnecessary. The Internal Affairs Committee voted 5 - 1 and recommends this bill as inexpedient to legislate.

SUBSTITUTE MOTION

Senator Pignatelli moved to substitute ought to pass for inexpedient to legislate.

SENATOR PIGNATELLI: I was the one in the 5 - 1 vote on this bill in Internal Affairs. I am proud of that vote. I think that for legislators to become lobbyists right after they are done serving as legislators is a misuse of the power. I think that it shouldn't happen. I think that it is wrong to allow legislators who are being hired, for one reason, and that is because they can influence their peers. The closer that they hire themselves as lobbyists to the time that they leave legislative service, the more influence that they will have on their peers. So I think that this bill is a good idea and that is why I voted for it.

Recess.

Out of recess.

A roll call was requested by Senator Pignatelli.

Seconded by Senator McCarley.

The following Senators voted Yes: Gordon, Rubens, McCarley, Whipple, Roberge, Pignatelli, Francoeur, Larsen, Russman, K. Wheeler, Hollingworth.

The following Senators voted No: F. King, Johnson, Fraser, Patenaude, Blaisdell, D. Wheeler, Squires, Podles, Barnes, J. King, Danaïs, Delahunty, Cohen.

Yeas: 11 - Nays: 13

Substitute motion of ought to pass failed.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 397, establishing a house study committee to examine the adoption of articles 41, 72-a and 73-a of the second part of the New Hampshire constitution. Internal Affairs Committee. Vote: 5-1. Inexpedient to legislate, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill would have created a study committee consisting solely of House members. Supporters at the public hearing testified that the sections of the constitution in question, are not the same as the constitutional questions put to the people, and that those sections of the constitutions should be struck. It is our interpretation that, that would eliminate the parts of the constitution that establish the office of the governor, the Supreme and Superior Courts, and the section that deals with the administration of the Supreme Court. The Internal Affairs Committee felt that this legislation is completely unnecessary and we voted 5 to 1 inexpedient to legislate.

SUBSTITUTE MOTION

Senator Pignatelli moved to substitute ought to pass for inexpedient to legislate.

SENATOR PIGNATELLI: I was the one on the Internal Affairs Committee who voted to pass this piece of legislation. Some of us are con-

cerned that the language when we have a constitutional amendment, the language that goes out to the people, so that they can vote on whether we want to have a constitution amendment or not, is not the same language that appears in the constitution if the question passes by the necessary votes. This bill establishes a House Committee to study three articles to the constitutional that were passed and when we looked at the way that the questions were asked of the public, and then we looked at what was eventually put into the constitution, they were not the same things. I think that when you amend the constitution, when you take the step, the very important step of amending our constitution, and the people need to approve the question, I think, that the wording has to be exactly the same as the wording put out to the public, that eventually winds up in the constitution. This committee would study three articles of the constitution where this was not the case. So I urge the senators to join me in supporting an ought to pass motion and I ask for a division vote.

SENATOR FRASER: Senator Pignatelli, would you first of all, agree that this committee is comprised of representatives only? There are no senators on this committee.

SENATOR PIGNATELLI: You are correct.

SENATOR FRASER: Secondly, would you also agree with me that if the leadership in the House was so inclined without the necessity of legislation, they could appoint such a committee to study the alleged problems that are articulated in the bill?

SENATOR PIGNATELLI: Yes.

SENATOR FRASER: Thank you.

SENATOR PIGNATELLI: I withdraw my motion for a division vote.

Recess.

Out of recess.

SENATOR BARNES: I really find it difficult to say a few words on this motion going to second reading, but parliamentary, I guess, that is the way that it has to be. What I am really talking about is the committee's report in asking you to support the inexpedient to legislate motion that the committee came out with. Senator Blaisdell gave me his speech again, and he asked me to read it because he said that apparently some folks weren't paying attention, and I find that hard to believe that everyone doesn't listen to Senator Blaisdell, so I am not going to read his second speech, but I am going to say this to you, and please bear with me because I haven't anything written, this is coming from the heart and no where else. I sat there at this hearing, Internal Affairs. All of the members weren't there for the full hearing and I understand that because we all have other places to go. I was fortunate enough to have been able to be there for the whole hearing. I heard the conversations from the folks that testified. I heard it very well, loud and clear. I also heard a gentleman get up and start to criticize our country, my country. He is ready for a revolution. Well, I will give him his revolution. I invited the gentleman to meet me in the hallway or outside after the hearing, but apparently he didn't have his gun with him so he didn't come out. I take great offense at anyone who attends one of my committee hearings, talking on a piece of legislation that attacks my country and your country. That is why I voted against it. I received three phone calls from the people from Vocal this weekend asking me to please vote for it. I ex-

pressed my opinion of it, and they said that they don't just agree with him, you know, he is just one person. I told them that one of the three people that called me had the guts to get up in front of my committee and tell him to shut up and to sit down. I really am concerned about this individual who is backing this thing to the hilt, and I am wondering how many other things like that there are out there. That is why I voted inexpedient to legislate and that is the way that I am going to vote it again today. My country is more important than this damn vocal group, I am sorry. Thank you, Mr. President.

SENATOR PIGNATELLI: Senator Barnes, do you believe that in the United States that we should not have the right to criticize our country and to try to change things that we see as not right or not proper?

SENATOR BARNES: Senator Pignatelli, I certainly believe that is an American custom, but sometimes, it is one that I have a problem with agreeing with all of the way. I agree with you on this particular issue and a few others that have come up in my lifetime, but I have a problem with this one. My country is very important to me.

SENATOR PIGNATELLI: As it is to me.

SENATOR BARNES: I know that it is, senator.

SENATOR PIGNATELLI: Thank you.

SENATOR LARSEN: I wasn't at this hearing, I didn't hear or see the arguments for and against, but when you look at this bill, you have to look at what articles this bill would concentrate on. The issue is... there may be a genuine issue whether we should adopt constitutional amendments that are not directly offered to the voter. There may be that issue that the voters don't get the actual wording of the language. That may be an issue that we may need to study. But what this bill does, is to study the creation of the office of the governor. This bill studies the Supreme Court and the Superior Court and questions their existence. This bill opens up a study committee to look at whether they are constitutionally authorized to exist because of the way that the question was proposed. I think that this is a very serious bill that we have to look at carefully. In the long-run, you may want to look at that constitutional question issue, but this bill doesn't do it. This bill has a hidden agenda to only look at those members of the court that particular people have issue with. I caution you to be careful with this bill. If you want to address constitutional questions in the future, let's do it, but this is not the bill to do it. I urge you to vote this bill inexpedient to legislate, vote no on ought to pass.

SENATOR FRASER: Mr. President, I had no intentions of speaking on this bill, but I am a member of the Internal Affairs Committee and I can only reaffirm what both Senator Larsen and Senator Barnes have already said. This bill was sponsored by Representative Hemon of Dover. If any of you read the newspapers in the last two or three years, you will realize that he has had some problems in the city of Dover with a particular judge over there. I questioned him specifically about the priority of this particular piece of legislation, if it had anything to do with that particular issue and he denied it. I can only reaffirm what Senator Larsen has said, that this Vocal Group has an agenda, a specific agenda and that is why this committee was almost unanimous in reporting this bill out as inexpedient to legislate.

SENATOR RUBENS: I urge the members of the Senate to vote in favor of this bill and to separate those who bring the message, the carriers, the

Vocals Group and those who talk about this issue. Some of these people have had, in their minds, abuse at the hands of the courts, whether they are right or wrong, I don't know. But the issue that they bring before us is what we are voting on. It is a study committee, it is nothing else. We are being asked to allow members of the House to examine whether there is too great a degree of difference between the words that the voters voted on in order to create these constitutional amendments and the words that actually were printed in the constitution. That is what we are being asked to allow the House just to examine the question of whether the words put before the voters and the words now appearing in the constitution differ too great of an extent. It is a very simple issue. It is only a study committee. I believe that the House ought to be permitted to proceed ahead on this and to tell us whether that is true or not and not to have to hear it just from Vocals, but to hear it from the House committee. I think that would be helpful to us. Thank you.

SENATOR BARNES: Senator Rubens, isn't there some way that if we kill this bill like what the committee is asking to make happen, isn't there some way that the House can keep that over in their chamber and study it? That is what it is, it is a House study bill, it doesn't belong over there in the Senate. There will be no senator members on it. So don't you think that there is a way for them to study this bill if it is so damn important to them?

SENATOR RUBENS: I am certain that there is, but I feel that the Senate should put the official sanction on the committee with specific reporting dates. It will elevate the level of sanctioning.

SENATOR BARNES: Would you believe that I agree with you that the Senate should put their stamp on it when we take this vote and say no?

SENATOR RUBENS: I believe you.

SENATOR F. KING: I guess that I am a little confused with what we are doing here. I, like a lot of other senators, spent the summer down here on study committees because we were told that it was the Senate's position that there had to be an equal number of senators to equal number of House members on all study committees. We know that is difficult when there are four hundred Representatives and only twenty-four Senators. Here we are about to pass a committee with only House members on it. We are violating the sacred rule, that I thought that we had, that we had to share equally in study committees. I just don't understand that. I think that this bill ought to be killed and that we ought to get on with the work of the day.

SENATOR D. WHEELER: Senator King, would you believe that last session we passed a bill to study the Fairbanks situation that was just a House study committee and again, in the Senate Judiciary committee we are facing another bill to continue the Fairbanks study with just a House study committee because they have the time to go into depth on these issues, so there have been precedence set.

SENATOR F. KING: I believe that if it is important to have three representatives and three senators spend the summer studying race tracks, that it is equally important to have three representatives and three senators, if it is worthy of being studied, study the constitution.

SENATOR HOLLINGWORTH: Senator King, would you, if this bill were to say that equal members of the House and the Senate, would you then support this legislation?

SENATOR F. KING: I would want to know more about the issue. The issue that I am raising here today, very simply, is that we seem to be voting on something that is contrary to what I believe is our practice of this body, when it comes to study committees. The issue that I have just heard for the first time, I didn't have the benefit of seating in the committee, and on issues like this where I am not a member of the study committee, I would certainly support the committee's recommendation of 5 - 1 for inexpedient to legislate. I trust my fellow senators to make those types of decisions.

SENATOR LARSEN: Senator King, like you, I wasn't at the committee hearing, but do you have your copy of the Black Book? If you do, you can open it up to article forty-one in the old book. It is on page one seventy-five. The articles that they are going to study were established June 2, 1784. They have been amended, but these are articles that establish the office of governor, these are articles that establish that office of the supreme court justice. I do not believe, and would you agree with me, that these articles that were adopted long enough ago to make it, article 72-A had some amendments to it, but these are the articles establishing the offices. I really wonder if we need to study those. If we do, I agree with you, that we would need to have the Senate members on it as well.

SENATOR F. KING: I guess that I would refer that answer to Senator Blaisdell, I think that he was here then, wasn't he?

SENATOR BLAISDELL: Senator Barnes, as chairman of the Internal Affairs Committee, wasn't it brought out that we thought that this bill was unnecessary because members of the House Committee can form a subcommittee to look into a subject anytime that they want and nothing really needs legislative creation?

SENATOR BARNES: Senator Blaisdell, as usual, you are absolutely correct.

SENATOR BLAISDELL: Thank you very, very much.

SENATOR PIGNATELLI: I would like to briefly respond to the question that Senator Larsen asked Senator King about looking into the articles that were adopted. I would like to read from the first paragraph of the proposed legislation, "There is established a committee to study the 1966 adoption of part II, article I of the constitution, 1966 adoption of part II, article 72-a and 1977 adoption of part II, article 73-a." So I guess that I would feel differently if we were going to look at the original constitution, but it is my understanding, from reading the legislation that we are going to be looking at these 1966 and 1977, certain parts of the articles. So I just wanted to set the record straight.

Senator Barnes moved the question.

Adopted.

Question is on the motion of ordering to third reading.

A roll call was requested by Senator Larsen.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Gordon, Johnson, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Pignatelli, Francoeur, Podles, Hollingworth.

The following Senators voted No: F. King, Fraser, McCarley, Blaisdell, Squires, Larsen, Barnes, Danais, K. Wheeler, Delahunty, Cohen.

Senators J. King and Russman (Rule #42).

Yeas: 11 - Nays: 11

Motion of ordering to third reading failed.

Senator Barnes moved inexpedient to legislate.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Barnes.

The following Senators voted Yes: F. King, Fraser, McCarley, Blaisdell, Squires, Larsen, Barnes, Danais, K. Wheeler, Delahunty, Cohen.

The following Senators voted No: Gordon, Johnson, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Pignatelli, Francoeur, Podles, Hollingworth.

Senators J. King and Russman (Rule #42).

Yeas: 11 - Nays: 11

Motion of inexpedient to legislate failed.

Recess.

Out of recess.

Senator Danais moved that we indefinitely postpone HB 397.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Barnes.

The following Senators voted Yes: F. King, Johnson, Fraser, McCarley, Blaisdell, Squires, Larsen, Barnes, Danais, K. Wheeler, Delahunty, Cohen.

The following Senators voted No: Gordon, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Pignatelli, Francoeur, Podles, Hollingworth.

Senators J. King and Russman (Rule #42).

Yeas: 12 - Nays: 10

Motion of indefinitely postponed is adopted.

HB 421, amending the law against discrimination to prohibit discrimination on account of a person's sexual orientation. Internal Affairs Committee. Vote: 3-2. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: Mr. President and members of the Senate, I rise to support House Bill 421 which would add sexual orientation to our state's civil rights laws. We live in a state whose motto is "Live Free or Die," I suppose that motto means different things to each of us and to our constituents, but we all agree that it stands for our love of freedom, for ourselves, our families, and for our fellow citizens. Whenever discrimination is allowed to exist, it chips away at our cherished freedom. Today, we have a historic opportunity to stand up and be counted on an important bill for freedom, for fairness, for human compassion. House Bill 421 is a bill whose time has come in New Hampshire. It is an act that would provide for an end to discrimination based on sexual orientation for housing, employment, and public accommodation. It grants no new rights or special privileges to anyone. As one minister of a Congregational Church wrote us, "It offers no special rights or protections; merely those which we all, as citizens of this free society, have a right to expect." In-

stead, it simply, yet powerfully, protects the rights of everyone, to have fair access to decent housing, a good job and the same public accommodations as other law-abiding citizens. House Bill 421 passed the House by a margin of 205 to 125. It has been voted "ought to pass" by the Senate Internal Affairs Committee. It has resounding support from many religious leaders in New Hampshire, including the Unitarian Universalist Church of Northern New England, the Roman Catholic Bishop of Manchester, the Bishop of New Hampshire for the Episcopal Church, the New Hampshire Conference of the United Church of Christ, numerous clergy members from their Congregational churches throughout New Hampshire, and from leaders of the Jewish religion, and from other leaders in other religious denominations. This is not a radical bill. It is supported by mainstream people because it is a mainstream bill for fair treatment. It is a bill about treating others as we would want people to treat us and our children. The bill addresses only status - in this case the status of sexual preference. It does not address conduct and does not call for the approval or disapproval of any form of conduct. Its aim is to prevent people from being deprived of housing, a job, or public accommodations solely on account of their sexual preference - in the same way that our laws preclude that kind of discrimination on the basis of age, sex, creed, race, national origin or physical or mental handicap. It is a narrowly drawn bill. It exempts: employers of fewer than six people. Employment by religious organizations or charitable, social, fraternal or education organizations. It also exempts, rentals or private sales of single family homes, rentals in apartment buildings of three or fewer units, religious housing, private clubs. In discussing civil rights, one of our former presidents said, "Every American ought to have the right to be treated as he would wish to be treated, as one would wish his children to be treated." You don't have to be in one party or the other to believe that. While that ideal is a goal we aspire to, today we want to take only one small step in that direction - a step that will place us in the company of many other states including Connecticut, Rhode Island, Massachusetts, Vermont, New Jersey, Minnesota and more. I encourage the support of all members of this distinguished body, the elected representatives of New Hampshire, citizens who put us here to lead, and to make fair and wise decisions, and to allow everyone here to live free and to share in the American dream of a safe and peaceful home, a good job for those willing to work, and a seat, any seat, on the bus. Government cannot put an end to all discrimination. But, as has been proven in the past, it can accomplish a great deal. Today, we twenty-four members of the Senate are the government of New Hampshire. We have the power to make an important contribution, to make our state a better place, to assure a measure of fairness for all of the people who live here. I hope we can take that step today. At the committee hearing, we heard from many supporters of this bill, and I want to quote from one long-time New Hampshire resident, "I am not asking people to change their values, or political party, or their lives, I am only asking you to vote for fairness." I ask the same today! Thank you.

SENATOR BARNES: Senator Pignatelli, would you believe that I think that you did a tremendous job on reporting this bill out to the body?

SENATOR PIGNATELLI: Thank you.

SENATOR BARNES: I just want to clear up... I want to make a statement, I guess, and it will be a "would you believe." Only in one of your statements am I going to ask you "would you believe." The bishop of the

Episcopal Church happens to be the bishop of the church that I have belonged to for over 60 years, but you know something? I don't agree with the bishop on many things that he has done. I don't believe that anyone, in any church, always agrees with their leaders?

SENATOR PIGNATELLI: I would believe that you believe that.

SENATOR JOHNSON: I would just like to say that there has been a lot of discussion out there and talk about the attorney general's office taking a position on this bill. I called the attorney general's office yesterday and the person that I spoke with, Steve Horan, said that they have not taken a position on this bill; however, in discussions with the Human Rights Commission, the Human Rights Commission at times, thought... and I say "thought" that there was some ambiguity in the bill. But in further discussion, I believe, that the only way that could be tested is that if it got to the Supreme Court. I just wanted to clarify that point. Thank you, Mr. President.

SENATOR GORDON: I speak not as a sponsor of this bill, nor as an advocate of homosexual rights. I address you simply as a human being and an elected member of this Senate, who like you, is faced with an uncomfortable task of deciding whether a citizen of the state should be disenfranchised from participating in certain activities simply because of that citizen's sexual orientation. I am a human being. As I stand before you today, I am anatomically a product of my past, through the miracle of genetic coding, DNA, my features and appearance have been largely inherited from the generations that preceded me. I am told that I look much like my father at this age. I am also told that I have my mother's nose, her beady eyes and her big ears. As much as I might like to change the way that I look, I am pretty much stuck with my physical characteristics. I am a human being. In addition to my physical predispositions, I have cultural predispositions. More than just physical characteristics, my ancestors have imbued me with certain values and beliefs. Like you, I rely upon my values and beliefs in daily living. They are the product of social coding, passed down through generations. I think that we could call this cultural predisposition or inheritance of values of at least cultural DNA. As part of my cultural DNA, I admit to having an ingrained disdain for homosexual conduct. Whether I am actually viewed or not, I find certain behavior distasteful. Some of you, I am sure, may feel the same way and that is to be understood, because like physical characteristics, cultural characteristics are also resistant to change. Regardless of whether our values and beliefs are based upon substance, misinformation or even ignorance, they exist nonetheless, and must be considered and accommodated. We are human beings. That brings us to the essence of the dispute over HB 421. For many of us, its purpose appears to conflict with the values that we hold so dear. By acknowledging that all persons are entitled to civil rights, despite their sexual orientation, we seem to be granting approval of behavior that is inconsistent with the composition of our very being. We are all human beings. Perhaps an understanding of civil rights would be helpful in resolving this personal conflict. Civil rights are not something in which this legislature can invent or create. Civil rights are given to us by a higher being. We exercise those civil rights and activities like going to school, eating at a restaurant, holding a job, making a home and traveling. Civil rights are those things which most of us take for granted in our everyday enjoyment of life, liberty and the pursuit of happiness. It is not for this legislature to create special rights for individuals; however, it is for

this legislature, to see that all citizens of this state, in exercising civil rights, receive equal protection under the law. That is the purpose of HB 421. We are all human beings, I might add. House Bill 421 amends the present anti-discrimination statute to add the category of sexual orientation. The anti-discrimination statute does not confer civil rights; in effect, it establishes a minimum acceptable standard. It says that if you are a professional landlord, if you are a business person employing more than six people, or if you hold yourself out as providing accommodations to the general public, you may not discriminate against certain categories of people. House Bill 421 does not force an individual of this state into an unwanted association. It does not create special rights, it is simply a recognition that regardless of your sexual orientation, you are entitled to enjoy the same basic privileges as other people. This law is consistent with the protection set fourth in our state and federal constitution. We are all human beings. I have given careful and thoughtful consideration to HB 421, and I have attempted to analyze its substance, not just its appearance. Just as I would wish to be judged by my character and not by my physical characteristics, I hope that you will put aside your emotions and your cultural predispositions and judge HB 421 based upon its content. I ask you to do this on behalf of all human beings. Thank you very much, Mr. President.

SENATOR BLAISDELL: Mr. President and members of the Senate, I rise in support of the committee's report. For 30 years I have refereed basketball, football and baseball in this state. Anytime that I walked between two men or two women to throw the ball up, I never asked them what their lifestyle was. Discrimination does not belong in your life or mine. It does not belong in this state, this country. We have to get rid of it. Two days ago we passed a resolution that asked Mr. Kraft to bring the Boston Patriots to the state of New Hampshire. It is pretty hard to bring those black players from the Boston Patriots when we don't recognize the Martin Luther King holiday in our state. I leave you with just one thought that I learned many, many, years ago, not longer than what Senator Fred King said, but when I was in St. Joseph's school the Sisters of the Lord taught us that what God creates, God does not hate. I hope that you will remember that.

SENATOR FRANCOEUR: This is very similar to the federal act defeated by congress on 9/96, also touted as a logical extension of title 7 of the civil rights act, the employment nondiscrimination act (HR 1863, S. 972) is actually a radical change in workplace discrimination law. Backers say that without any creditable substantiation, that homosexuals need heightened protection not afforded to other employees in the workplace. House Bill 421 is bad legislation because it sets the stage for an enormous expansion of state power over employers. It guarantees an onslaught of costly litigation that will hurt small business most of all. It prohibits employers from disciplining or taking into account, in any way, any sexual activity on the job by an employee. It defines "sexual orientation" so broadly that all sexual proclivities, to bisexuality, are given special protection and therefore moral status on a par with sex within a marriage. It poses a serious threat to employers' and employees' freedoms of religion, speech and association. The law would ensure that employers could no longer take their most deeply held beliefs into account when making hiring, management and promotion decisions. This would pose an unprecedented intrusion by the state government into people's lives. Homosexual activists claim that as many as 84 percent of

the American people support "equal rights" in terms of job opportunities. Well, yes. Most Americans believe that homosexuals should have the same rights all employees have - but no more than that. It depends on how the question is asked. When the question is asked whether homosexuals should have fewer rights, the same rights or more rights, a majority says they should have the same rights. Sometimes, the question is asked during debates "Do you think someone should be fired just for being gay?" Most people would answer "no". Few people want gays "discovered" and fired, and most homosexuals can honestly report no real discrimination against them. But the loaded question ignores crucial facts, such as how the person's sexuality was made manifest and how it affected the workplace. House Bill 421's sweeping protection based on "sexual orientation" eliminates any legitimate questions as to appropriateness of sexual behavior. Here are some examples of how HB 421-like policies have already been or could be abused: In Seattle, a CPA referral specialist, Bryan Griggs, laid off all of his small staff except his wife in 1994. One employee later charged Mr. Griggs with discrimination and sexual harassment under Seattle's gay rights law even though Mr. Griggs did not even know that the man was a homosexual. Before he cleared his name, Griggs spent thousands of dollars defending himself. In 1991, Shell Oil was fined \$5.3 million for dismissing an executive, Jeffrey Collins, who had used company equipment at a Shell subsidiary firm, Triton Biosciences, to produce and copy a flyer advertising a "safe sex" party for homosexual men. Superior Court Judge Jacqueline Taber ruled that a California company violated a policy that it would judge employees only on job performance and not on activities unrelated to work. The ruling effectively means that California employers like Shell must turn a blind eye to even the most outrageous outside "activities" of employees, even when the employee uses company-owned equipment to promote them. Taber cited a 1979 California Supreme Court ruling that employees cannot be fired for off-the-job "political" activity. She also made it clear that Collins' activities were protected, not in spite of, but because of his sexual orientation. "The evidence is overwhelming that homosexual group sexual activity was beyond the pale of conduct acceptable to the top management of Shell," she wrote. Taber's ruling explored, in her words, "The relative new issue of how far a corporation may go in demanding that its managerial staff, in their respective private lives, deport and conduct themselves in a manner acceptable to and meeting the corporation's concept of propriety." By deciding against Shell, the judge ruled that private companies cannot discourage employees from participating in homosexual orgies or any other behavior broadly covered under "sexual orientation." In Loudon County, Va., Jeffrey Bruton, a teacher/coach at a public middle school and high school, was found to have appeared in several hard-core homosexual porn films. Loudon School Superintendent Edgar B. Patrick, III said that the teacher would be dismissed if the allegations are true because, "We believe that teachers, as people who are chosen to be instructors as well as leaders of our young people, should be exemplary in their professional as well as their personal lives." He also said he would ask the state to revoke Bruton's teaching license. Virginia state law stipulates that a teaching license can be revoked for "conduct such as immorality, or personal condition detrimental to the health, welfare, discipline, or morale of students." Before Bruton could have claimed that his "sexual orientation" is nobody's business - certainly not his employer's - and that school officials would be discriminating against him if they even mentioned it. In 1993, a com-

puter software company in California hired a temporary employee, who turned out to have been a man dressed as woman. One of the women who worked at the company suspected the "woman" was really a man, and she warned other women that "she" might use the rest room. Many of the female employees opted to go several blocks away to use the rest room of a fast-food restaurant. When "her" temporary employment was at an end, the "woman" applied for a permanent status. The employer, who still did not know the "woman" was really a man, declined on the basis that "she" was overqualified for the position and also had "a chip on her shoulder." The "woman" sued the company, claiming discrimination based on "sexual orientation." The employer settled out of court in 1995, paying the "woman" six hundred thousand dollars as well as incurring six hundred thousand dollars in legal bills. As a result of this expensive legal attack, the company immediately laid off eight employees and has not yet recovered, dropping from more than 50 to 30 employees. In Hollywood, an orthodox Jew was working at his desk when two homosexual colleagues stopped nearby. They discussed openly and graphically a homosexual porn film that one of them had seen. The Orthodox Jew, who says he has nothing against homosexuals but does not approve of homosexuality, asked them politely not to talk about pornography around him. The two men charged him with sexual harassment. Apparently, any interference with their enjoyment of a sexually-explicit, "gay" pornographic film (even after the fact) constituted disapproval of their "sexual orientation." House Bill 421 is so broad that any bizarre sexual behavior would be protected. Under this legislation, if an employer heard that a highly visible employee was openly flaunting his sexual tastes, having highly noticeable adulterous affairs, or discussing his taste for pornography with other employees, the employer would have no recourse. Even asking about such activities might be construed as a sexual harassment based on sexual orientation. Since courts consistently have found that "sexual orientation" is meaningless without sexual activity itself, any legislation based on "sexual orientation" defends all sexual behavior and declares it to be irrelevant to the employer and to customers. What at first glance appears to be a harmless gesture of "tolerance" toward homosexuals in the workplace actually is a mighty weapon to be used against employers, other employees who believe that homosexuality is wrong, and against the freedoms of association, religion and speech. It would distort the concept of civil rights by creating an unprecedented behavioral component whose outer limits cannot even be imagined. Americans favor equal rights, not special rights for gays in the workplace. Homosexuals deserve the same rights as other Americans — no more, no less. House Bill 421 ought to be called the Government Lawyers Expansion Act, since it would result in so many opportunities for the use of lawsuits to expand state power. Legitimate minorities will see their own efforts to ensure equal treatment undermined by this unwarranted expansion of claims by a group that in no way shares their history. As a group, homosexuals enjoy enormous economic and political power, and are not disadvantaged the way true minorities have been. Civil rights laws were enacted to offset discrimination against African-Americans and other nationalities, but homosexuals can claim no such victim status as an oppressed, poor minority. They are trying to hijack a movement for their own advantage. Thank you.

SENATOR COHEN: To everyone's great relief, I will be very brief. First of all, I just wanted to bring up the fact that any complaint against discrimination of this bill would go to the Human Rights Commission, not

the courts. Secondly, I was a little surprised that Senator Francoeur doesn't support this since he said that he supports equal rights for all. This is about equal rights for all, no more, no less. This is about real people, this is not a political litmus test. I will tell you that I got a call yesterday from a republican who is very high up in the republican party who did this person's job very, very well and yet felt the sting of discrimination because of the perception that this person was homosexual. This person was denied jobs, housing, this is a good solid republican who called me out of the blue, unsolicited. I would like to just say one more thing, I did not choose to be straight, I just am, as with so many people that we know, our friends, our neighbors and our family. My brother didn't choose to be gay. That is an oppressed minority, believe me. He happens to be gay. Discrimination against my brother is now legal in the state of New Hampshire. I too have spoken to the Attorney General's Office who told me that there is in fact, no legal recourse now. I will not accept discrimination against my brother, none of us should accept that. I urge you to vote yes on HB 421.

Senator Rubens moved the question.

Adopted.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

Paired votes: Senators' F. King and J. King.

The following Senators voted Yes: Gordon, Fraser, Rubens, McCarley, Whipple, Blaisdell, Squires, Pignatelli, Larsen, Danais, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: Johnson, Patenaude, Roberge, D. Wheeler, Francoeur, Podles, Barnes, Russman, Delahunty.

Yeas: 13 - Nays: 9

Adopted.

Ordered to third reading.

Recess.

Out of recess.

HB 171, repealing the citizens advisory committee which advises the pesticide control board. Environment Committee. Vote: 4-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: I will read you this piece, Senator Barnes. House Bill 171, repealing the citizens advisory committee which advises the Pesticide Control Board. This advisory committee was created three years ago. It toured the state and provided an opportunity for the public to voice their concerns over pesticide use in their area. These hearings were sparsely attended. The members of the Advisory Committee have since decided that their function should be performed by the Pesticide Control Board rather than a separate committee and are therefore requesting that it be disbanded. The Environment Committee unanimously recommends passage of HB 171.

Adopted.

Ordered to third reading.

HB 348-FN, allowing the state fire marshal to investigate a building collapse or release of carbon monoxide. Environment Committee. Vote: 4-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 348, a request of the Department of Safety, is largely viewed as a housekeeping measure because it codifies current practice. Presently, the statute is silent on who has the authority to investigate building collapses or accidents where carbon monoxide was involved. Automobile accidents involving carbon monoxide are not included in this legislation because they are generally viewed as suicide related issues. Although the state Fire Marshall's office has been conducting these investigations, they believe that there is the need for them to have the express legal authority to do so. Particularly in the event that an incident winds up in the courts. A relatively recent incident did result in a court case and the office was concerned that their work could have been thrown out because there was no legal authority to conduct the investigations. No additional staff are being requested in this bill because actions such as these, fortunately, rarely occur in New Hampshire. So any investigation can be absorbed by the existing budget. The Environment Committee unanimously recommends ought to pass.

Adopted.

Ordered to third reading.

HB 744, relative to administrative fines for violations of safety regulations regarding water pollution and waste disposal, authorizing the attorney general to enjoin any youth camp, public swimming pool, or spa operating without approval, and relative to the legal status of local river management advisory committees. Environment Committee. Vote: 4-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 744 grants the Department of Environmental Services the ability to assess administrative fines for violations of safety regulations in public swimming pools, youth camps and spas. The department is already charged with the responsibility of regulating these facilities, but they are limited in their enforcement abilities. At the present time, they are only able to pursue civil penalties in situations that they perceive to be a public health threat. This bill would give the department the ability to either assess administrative fines or shut the facility down if it poses a serious health risk. House Bill 744 also clarifies that local river management advisory committees may file for tax exempt status and raise funds. The Environment Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HJR 5, urging the United States Congress and the United States Environmental Protection Agency to make certain changes in the Clean Air Act which would result in more cost effective air pollutant emission reductions. Environment Committee. Vote: 4-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Joint Resolution 5 encourages congress and the Environmental Protection Agency to work together to make changes in the Clean Air Act which would enable the implementation of more cost effective methods of emission reductions. The act, presently, does not provide states with the flexibility to implement measures that would more appropriately satisfy their regional needs. New Hampshire

for example, is electing to not go forward with the motor vehicle emissions testing program because we not only have achieved the attainment levels prescribed by the Clean Air Act, but also because the program targets the wrong types of emissions. The state's reluctance to participate is likely to yield sanctions at the federal level. However, if congress and the EPA were to modify the Clean Air Act as suggested in this resolution, New Hampshire and other states throughout the country, could modify their programs to address their particular needs without the threat of sanctions. The Environment Committee unanimously recommends passage of HJR 5.

Adopted.

Ordered to third reading.

HB 269, relative to the compensation of sweepstakes commissioners who are members of a multi-state lottery commission. Executive Departments and Administration Committee. Vote: 4-1. Ought to pass, Senator J. King for the committee.

SENATOR J. KING: New Hampshire Sweepstakes Commissioners meet 12 times per year and make \$6227 per year for their services. One representative from the New Hampshire Sweepstakes Commission also serves on the Tri-State Lotto Commission, a consortium representing New Hampshire, Vermont and Maine. Prior to October 1995, the Tri-State representative from New Hampshire was earning \$519 per day, which is the \$6227 divided by 12 days, while attending the monthly Tri-State meeting. In October 1995 the New Hampshire Sweepstakes Commission administratively reduced the per diem to \$50. House Bill 269, requested by the sweepstakes commission, will simply put the reduction to \$50 in statute. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 375, relative to the statement which must be signed by applicants for notary public or justice of the peace. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: Currently under RSA 455:2 relating to applications for notary publics and under RSA 455-A:2 relating to applications of justices of peace statutes read that the applicants for notary public or justice of the peace must sign a written statement under oath stating whether the applicant has ever been arrested of a crime. House Bill 375 simply replaces references to "arrest" with references to "conviction." The premise of HB 375 is the presumption of innocence. A conviction, and not a mere arrest, should be possible grounds for denial of an application for notary public or justice of the peace. Criminal investigation checks will continue to be done, as the governor and executive council have the final vote on whether or not an application should be granted. The committee recommends unanimously that this bill ought to pass.

Adopted.

Ordered to third reading.

HB 667, relative to confidentiality issues concerning the exchange of information between the departments of revenue administration and employment security and relative to payment of employer contributions. Insurance Committee. Vote: 4-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this is a housekeeping bill as presented by the Department of Employment Security. Apparently the department wants to gather information from the Department of Revenue Administration concerning an employer and payment of worker's compensation, they must request the information through the Attorney General's Office. This bill would allow the Department of Employment Security to obtain that information directly and save time and effort, provided that they are allowed to receive confidential tax payer information from the IRS. The bill also allows the Department of Employment Security to credit late payments to the Worker's compensation fund to the next year. It makes a reference change by referring a specific RSA instead of a subdivision, and allows the Department of Employment Security to collect unpaid worker's compensation payments from out-of-state employees. The Insurance Committee votes ought to pass.

SENATOR LARSEN: I am sorry, I am not clear. I was wondering if you can help me understand. Under what conditions is the confidential information allowed to be given to the department. It says, "If the department of employment security is allowed to obtain confidential taxpayer information." Under what circumstances are they allowed to receive confidential taxpayer information?

SENATOR BLAISDELL: As long as it is within the law, is what they told us. That, pure and simple, as long as it was in the law and covered by the law.

SENATOR LARSEN: So if the IRS deems that it is allowed, they can get it?

SENATOR BLAISDELL: That is right. It is very simple. It saves time and effort.

Adopted.

Ordered to third reading.

HB 199-FN, to include highways designated as part of the National Highway System within the definition of "federal aid primary system" for purposes of the control of outdoor advertising. Transportation Committee. Vote: 3-2. Inexpedient to legislate, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 199 proposed to change New Hampshire's definition of federal aid primary system in order to comply with the federal definition. Doing so would bring seventy-five and eighty-five new billboards under the department's control. The Transportation Committee voted to make this bill inexpedient to legislate because we feel that regulating these billboards should be an issue handled by local control. Most municipalities, presently, have zoning ordinances covering billboards and we believe that this authority should stay with them and not with the state; therefore, we recommend that you support our recommendation of inexpedient to legislate on HB 199.

SUBSTITUTE MOTION

Senator Whipple moved to substitute ought to pass for inexpedient to legislate.

Recess.

Out of recess.

Senator Blaisdell moved to have **HB 199-FN**, to include highways designated as part of the National Highway System within the definition of "federal aid primary system" for purposes of the control of outdoor advertising, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 199-FN, to include highways designated as part of the National Highway System within the definition of "federal aid primary system" for purposes of the control of outdoor advertising.

HB 412, relative to motor carrier safety rules and repealing certain obsolete statutes relating to motor vehicles. Transportation Committee. Vote: 6-0. Ought to pass with amendment, Senator Russman for the committee.

1997-1192s
03/09

Amendment to HB 412

Amend RSA 266:72-a, II as inserted by section 2 of the bill by replacing it with the following:

II. Whenever the commissioner finds that a motor carrier safety regulation in 49 C.F.R. sections 390-397, provides an equal or greater degree of safety the commission may, pursuant to RSA 260:5, adopt the federal regulation as a rule, and the rule shall take precedence over the conflicting provisions of this title. No person who is in compliance with the corresponding rule adopted by the commissioner shall be convicted of violating a conflicting provision of this title. The commissioner shall request the introduction, at the next annual session of the legislature following adoption of such a rule, of legislation amending or repealing the conflicting provision of this title and, if the legislation is not enacted, any rule so adopted shall be automatically repealed 60 days after the last day of the legislative session.

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-4 to read as 5-6, respectively:

3 New Paragraph; Intrastate Utility Vehicle Exemption. Amend RSA 266:72-a by inserting after paragraph III the following new paragraph:

IV. Utility service vehicle drivers providing intrastate service shall be exempt from the provisions of 49 C.F.R. 395 as adopted pursuant to this section.

4 Tinted Glass; Exceptions Added. Amend RSA 266:58-a, III to read as follows:

III. It shall be unlawful to drive on any way any motor vehicle registered in this state which has after market tinting on the windshield or on the windows to the left and right of the driver. Where after market tinting is applied to windows to the rear of the driver, outside rear view mirrors shall be required on both the left and right side of the vehicle for the use of the driver and a front seat passenger. The light transmittance of after market tinted windows where they are allowed shall not be less than 35 percent, *except that the light transmittance of aftermarket tinted rear windows of multipurpose passenger vehicles, as defined in 49 C.F.R. 571.3 and pickup trucks may be such percentage as is allowed by 49 C.F.R. 571.205 with respect to pre-market tinted rear windows.*

AMENDED ANALYSIS

This bill clarifies the authority of the commissioner of the department of safety relative to federal motor carrier safety regulations.

This bill also repeals certain obsolete motor vehicle laws and creates certain exceptions to the tinted window law.

SENATOR RUSSMAN: This bill allows the state to track federal legislation relative to hazardous waste transportation and the federal law changes. It also allows extended hours of driving utility workers when there are storm conditions. It further allows that, if you can believe it, we actually have to have a law to do this, to have the tinting of windows in the rear of sports utility vehicles and such pickup trucks, which ought to be done anyway, but this will allow that to conform with the federal law so that we will be available to do that.

Amendment adopted.

Ordered to third reading.

HB 586, changing the expiration date of OHRV registrations. Transportation Committee. Vote: 5-0. Ought to pass, Senator Amy Patenaude for the committee.

SENATOR PATENAUDE: House Bill 586 changes the expiration date of OHRV registrations to coincide with the state fiscal year. Presently, registrations expire on October 1 of each year. Testimony suggested that this change is significantly to decrease the administrative burden for the Department of Fish and Game. The Transportation Committee recommends HB 586 as ought to pass.

SENATOR LARSEN: Senator Patenaude, what happens to those who have registered their OHRVs thinking that they were registering through October and then finding out that their registration is in fact, shorter this year? I am just wondering, are we going to be hearing from the OHRV owners that we have now given them a shorter license? At least for one year.

SENATOR PATENAUDE: To tell you the truth, I don't know the exact answer. Many of these off road vehicles are usually TAPE INAUDIBLE so I don't think that it would affect the majority of the people in a negative way. There was no opposition to this bill and the benefits that are to be reaped from it, I think, outweigh that minor concern.

SENATOR LARSEN: Thanks.

SENATOR FRANCOEUR: Senator Patenaude, will the people that have paid through October of next year, from July, get reimbursed the money that they have paid in?

SENATOR PATENAUDE: I do not know.

SENATOR D. WHEELER: Senator Patenaude, I am sorry to belabor this, but two weeks ago, I registered my ATV, will I be expected to reregister that on July 1?

Recess.

Out of recess.

SENATOR PATENAUDE: The effective date will take place on January 1, 1998 so that shouldn't have an effect on you.

SENATOR D. WHEELER: In effect then, would my next ATV registration only be good for nine months? Also, will the fee be prorated down to nine months?

SENATOR PATENAUE: I do not know.

Senator D. Wheeler moved to have **HB 586**, changing the expiration date of OHRV registrations, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 586, changing the expiration date of OHRV registrations.

HB 533-FN, making technical corrections in the liquor laws. Ways and Means Committee. Vote: 6-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, HB 533 making technical corrections in the liquor laws and was a request from Commissioner Byrne from the Liquor Commission. This bill allows the Liquor Commission to determine the allocation of spending for their advertising budget. It clarifies language in regard to performing art licenses. It allows combination licenses the ability to sell fortified wines and it clarifies some language in regard of the ability of beverage manufacturers to promote their products. The commission determined that the fortified wines' sales totaled well over four million dollars in 1996 and the addition of sales to off premise locations, the increase in annual fortified wines' sales is expected to increase well over 20 percent. The gross sale volume of fortified wine is expected to increase an additional 5 percent each year beginning in fiscal year 1999. The Liquor Commission stated that this bill will increase state general fund unrestricted revenue by one hundred eighty-one thousand dollars in 1998, and one hundred ninety-one thousand dollars in 1999, and two hundred thousand dollars in fiscal year 2000, and by two hundred and ten thousand dollars in fiscal year 2001. The Ways and Means Committee recommend this bill ought to pass. Mr. President, I would hope that if this bill passes the Senate that you would please send it down to Finance.

Adopted.

Referred to the Finance Committee (Rule #24).

RULES COMMITTEE

Senator J. King moved that the Senate Rules Committee met and came up with the following proposed deadline and session dates for 1997:

SESSION DAYS: May 6, 8, 13, 15, 20, 22, 28 & 29

June 3, 5, 10, 12 & 25

LAST DAY FOR ACTION ON HOUSE BILLS

IN SENATE **May 28, 1997**

BUDGET ACTION IN SENATE **May 28, 1997**

LAST DAY TO APPOINT COMMITTEE. OF

CONFERENCES **May 29, 1997**

LAST DAY TO APPOINT BUDGET COMM.

OF CONFERENCES **May 29, 1997**

LAST DAY TO SIGN OFF ON ALL

COMMITTEE OF CONFERENCE

REPORTS INCLUDING BUDGET BILLS .. **June 5, 1997 at 3 p.m.**

LAST DAY FOR ACTION ON ALL COMM.

OF CONF. REPORTS **June 10, 1997**

LAST DAY FOR ACTION ON BUDGET BILLS **June 12, 1997**

BUDGET TO THE GOVERNOR..... **June 12, 1997**

SESSION DAY FOR VETO MESSAGES **June 25, 1997**

Adopted.

ANNOUNCEMENTS**RESOLUTION**

Senator Fraser moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, May 8, 1997 at 10:00 a.m.

Adopted.

LATE SESSION**Third Reading and Final Passage**

HB 171, repealing the citizens advisory committee which advises the pesticide control board.

HB 269, relative to the compensation of sweepstakes commissioners who are members of a multi-state lottery commission.

HB 348-FN, allowing the state fire marshal to investigate a building collapse or release of carbon monoxide.

HB 375, relative to the statement which must be signed by applicants for notary public or justice of the peace.

HB 412, relative to motor carrier safety rules and repealing certain obsolete statutes relating to motor vehicles.

HB 421, amending the law against discrimination to prohibit discrimination on account of a person's sexual orientation.

HB 667, relative to confidentiality issues concerning the exchange of information between the departments of revenue administration and employment security and relative to payment of employer contributions.

HB 744, relative to administrative fines for violations of safety regulations regarding water pollution and waste disposal, authorizing the attorney general to enjoin any youth camp, public swimming pool, or spa operating without approval, and relative to the legal status of local river management advisory committees.

HJR 5, urging the United States Congress and the United States Environmental Protection Agency to make certain changes in the Clean Air Act which would result in more cost effective air pollutant emission reductions.

Senator J. King moved that the Senate now adjourn until Thursday, May 8, 1997 at 10:00 a.m.

Adopted.

Adjournment.

May 8, 1997

Senator Rubens in the Chair.

Senators Danaïs and Johnson are excused for the day.

The Senate met at 10:00 a.m..

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

Crafting a biennial budget for the state is like trying to figure out how to control black flies in the North Country – an effort that is well worth

pursuing but one which feels overwhelming much of the time and is complicated by the fact that nearly everyone has their own idea about a sure fire home remedy that will make things better. The House likes some of the ideas but doesn't know who to pay for them. The governor thinks that 25 cents a pack would work. Some senators think less is more. The Union Leader says, "right." The Concord Monitor says, "left." The lobbyists, well, they say lots of things. And God says, "Love your neighbor as yourself." As you do your work, remember that all of those voices are important. Just make sure that last voice doesn't get drowned out – because the budget you create for us will not just be a financial spending plan, but will also be the true statement of what our ethical and moral priorities and values actually are.

Lord, You have commanded us to love one another. We just don't know exactly how it is You want us to do that, especially when it comes to money. So give us the desire to make each line item, expenditure, program and tax not just something that makes us or our party look good, but rather something that actually does some good and then show us how to vote that desire into reality.

Amen

Senator Patenaude led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives has Re-referred to Committee the following entitled Senate Bills sent down from the Senate:

SB 53-FN, relative to payment by the retirement system of certain medical benefits for group II members and for certain permanent firemen on disability retirement.

SB 62, authorizing the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 and 1998 annual meetings of those towns to April 8, 1997, and April 14, 1998, respectively.

SB 66, allowing a state resident to obtain a license for a pistol or revolver for life.

SB 84, revising the uniform simultaneous death act.

SB 96, relative to the priority of charges in probate of estates.

SB 131-FN, allowing certain state employees to take paid leave to participate in disaster relief service work.

SB 179-FN-L, establishing a committee to study creating a New Hampshire local government records management improvement fund.

SB 205FN-L, establishing a special school district to provide special education for eligible inmates in the state prison system.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 30, relative to time of dog licensure.

SB 31, relative to rabies certificates.

SB 34, repealing laws relative to abortion.

SB 146, establishing a committee to study the issue of reducing the number of years of service required to be vested in the retirement system plan from 10 years to 5 years.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 37, relative to line items at town and school district meetings.

SB 106-FN, establishing a committee to study the regulation of gas burner technicians and oil burner technicians.

SB 173-FN, relative to license and registration suspensions.

SB 198-FN-L, relative to the standard for granting of variances by zoning boards of adjustment from dimensional requirements.

SB 206-FN-A, relative to seminars conducted by the superior court for persons seeking custody or visitation of minor children and relative to fees charged for such seminars.

SB 217, relative to control of accessory uses on private land, including aircraft takeoffs and landings.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in its amendments to the following entitled House Bill sent down from the Senate:

HB 486, relative to a study of a certain portion of Route 3A and relative to establishing a committee on the feasibility of installing rumble strips.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 249, clarifying the authority of local police officers to serve cease and desist orders against planning and zoning violations.

HB 368, establishing the honorary position of artist laureate of the state of New Hampshire.

HB 652, establishing a house committee to study certification of police and fire dispatchers.

HB 662, revising the laws relative to the use of dealer plates.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 189-FN-L, authorizing the department of safety to issue resident driver's licenses to certain aliens.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 189-FN-L, authorizing the department of safety to issue resident driver's licenses to certain aliens.

Senator Pignatelli moved to non concur and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Patenaude, Whipple, Rubens

Recess.

Senator Barnes in the Chair.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following

HB 255, establishing a committee to study access to dental care for low-income, uninsured, and underinsured persons.

HB 336, clarifying certain definitions relating to dams.

HB 381, relative to public recreation and park areas in municipalities.

HB 398, allowing Delta Dental Plan of New Hampshire to issue plans to individuals.

HB 434, relative to milk products of sheep and goats and milk producer permits and allowing the commissioner of the department of health and human services to impose certain administrative fines.

HB 471, relative to the method of refund of the road toll paid by private school bus companies.

HB 516, increasing the fuel oil discharge cleanup fund fee.

HB 706, establishing a commission on animal damage control to review the fish and game laws relating to damage by game birds and game.

SB 103, establishing a committee to study issues relating to the licensing of child day care centers.

SB 110, allowing the Coos county convention to revise the compensation of the county sheriff.

SB 119, prohibiting a person convicted of any sexual offense, felony, or DWI offense from obtaining a waiver to remove the person's driver's license image from department of safety records.

SB 144, establishing a committee to study certain issues regarding Silver Lake in the towns of Belmont and Tilton.

SB 156, establishing a committee to study issues relating to providing special education services to eligible pupils who are incarcerated in the state prison system and county correctional facilities.

Senator Barnes moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill

HB 332, repealing the law which prohibits an entity which conducts horse or dog racing from employing a member of the general court.

HB 343, relative to authority by governmental entities over driveways and other accesses to public ways.

HB 540, establishing a committee to study ways in which state agencies can be encouraged to assist small businesses to develop practices that comply with state law.

HB 713, relative to the names of foreign limited partnerships, and eliminating an annual notice requirement for limited liability partnerships.

SB 76, limiting the liability of school districts operating facilities for skateboarding, rollerblading, or rollerskiing.

SB 152, establishing a committee to study issues related to allowing the city of Manchester to adopt a 2-year budget cycle.

SJR 1, recognizing the town of Brentwood as the county seat of Rockingham county.

Senator Barnes moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 215, relative to taxation of discretionary easements.

HB 328, relative to hour limitations on voting.

HB 498, recognizing the New Hampshire Farm Museum in Milton, New Hampshire as the first official state of New Hampshire farm museum.

SB 87, relative to permissible agreements between beverage manufacturers and vendors and beverage wholesale distributors.

HJR 7, urging the United States Congress and the Veterans' Administration to maintain adequate health care services for New Hampshire Veterans.

Senator Barnes moved adoption.

Adopted.

COMMITTEE REPORTS

HB 128, relative to state regulation of participation by foreign banks in the financial markets of New Hampshire. Banks Committee. Vote: 6-0. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill is in response to interstate banking as it involves international banking. The bill would allow foreign banks to establish representative offices in New Hampshire. New Hampshire does not have regulatory powers over foreign banks, but with this bill, the state would have power over foreign banks' representatives. These representative offices would not be banks, but individuals, lawyers and the like, who would conduct business on behalf of the foreign banks. The benefit to New Hampshire would be in the area of international product exports from New Hampshire. Many companies are hesitant to export overseas because they could not be assured of payment after the receipt of goods overseas. The practice of a representative office would allow the company to be sure that the money from their shipments, is indeed being held in the foreign bank through that bank's representative in New Hampshire. The foreign bank holds the money until the receipt of the goods, during which time the bank is earning interest, and then releases the funds to the New Hampshire company upon receipt of the goods, allowing more New Hampshire companies to trade overseas with much less risk of nonpayment. The committee was unanimous in recommending this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 157, requiring persons marketing small consumer loans by offering inducement checks to print a disclosure on the inducement checks. Banks Committee. Vote: 6-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1242s
09/08

Amendment to HB 157

Amend the introductory paragraph of RSA 399-A:3, IX as inserted by section 1 of the bill by replacing it with the following:

No licensee shall induce any potential borrower who is not a loan customer of the licensee to enter into a closed-end loan agreement, by delivering in the first instance a negotiable check for such loan to such potential borrower, without including the following information clearly printed on the endorsement side of the check:

SENATOR FRASER: Mr. President, this bill requires persons making small consumer loans through the use of live inducement checks to print full disclosure of the loan rates, terms and conditions of the loan on the back of the check. The committee amended the bill to limit disclosure to non customers of small loans and finance companies. The purpose of the bill is to assure that all prospective borrowers are aware and knowledgeable that the check that they are signing is a loan and is subject to repayment. The bill requires full disclosure below the endorsement line of the check of the monthly payment, the interest rate, the term of the loan and the total amount due by the borrower. The Senate Banks Committee was unanimous in recommending that this bill be ought to pass.

Amendment adopted.

Ordered to third reading.

HB 190, relative to interstate banking and branching. Banks Committee. Vote: 6-0. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: House Bill 190 is the result of a study committee on Interstate Banking and Branching and is a request of the Banking Department. This bill grants the Banking Department additional authority to examine out-of-state banks and bank holding companies. It would require that an out-of-state bank or holding company looking to acquire a New Hampshire bank or to establish a New Hampshire branch, will file an application with the bank commissioner along with an investigation fee of fifteen hundred dollars. The Banking Department indicated that no additional staff will be necessary to implement this legislation. The Banks Committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 258-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies. Banks Committee. Vote: 6-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1243s
09/08

Amendment to HB 258-FN

Amend RSA 383:13-a as inserted by section 1 of the bill by replacing it with the following:

383:13-a Requirement to Display Information. All financial institutions regulated by the bank commissioner shall provide information on its

fees, charges, and products related to demand deposit accounts to the bank commissioner on a semi-annual basis. The bank commissioner shall compile and provide the information on a uniform matrix. All state-regulated financial institutions shall make available for distribution to the general public information on their demand deposit accounts on a uniform matrix developed by the bank commissioner. The uniform matrix developed by the bank commissioner shall be conspicuously placed in the lobby of each main office and branch of the institution located in this state, in order to enable the consumer to make intelligent choices among the institution's various demand deposit accounts and demand deposit account-related services. The bank commissioner shall adopt rules, pursuant to RSA 541-A, relative to the uniform matrix required under this section.

AMENDED ANALYSIS

This bill requires financial institutions regulated by the bank commissioner to provide certain information on fees, charges and products related to demand deposit accounts to the bank commissioner. The bank commissioner will compile this information on a uniform matrix and provide it to all state-regulated financial institutions for display in their lobbies. The bank commissioner is granted rulemaking authority to develop such uniform matrix.

SENATOR FRASER: Mr. President, HB 258 is supported by the committee as a consumer friendly bill to provide bank customers with a way in which they can compare products, fees and charges in order to make a sensible choice from their financial institution. This bill as amended, will require financial institutions, regulated by the bank commissioner to provide certain information on fees, charges, products related to demand deposit accounts to the bank's commissioner. The commissioner in turn, will provide a matrix for all banks to place in their lobby, detailing their fees, products and charges related to deposit accounts. Currently, when a customer walks into a bank, they have to take several different brochures to get all of the necessary information and some brochures are not readily available on the floor. This bill is looking to standardize the form in which this information is displayed because it is currently too erratic between banks. Banking consumers should not have to go through several people in order to get adequate information. Mr. President, this is an excellent piece of legislation. It was sponsored by Representative John Hunt. The committee was unanimous in support of ought to pass.

Amendment adopted.

Ordered to third reading.

HB 327, relative to pledges for loans, finance charge disclosure statements, debt adjusters, and consumer credit transactions. Banks Committee. Vote: 6-0. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-1187s

09/01

Amendment to HB 327

Amend the introductory paragraph of RSA 398:2 as inserted by section 1 of the bill by replacing it with the following:

398:2 Prohibited Pledges. No person shall receive in pawn, whether as security for any loan, transfer, service, undertaking, or advantage:

SENATOR K. WHEELER: House Bill 327 is also a request from the Banking Department. It will prohibit certain pledges as security for loans. It authorizes a finance charge disclosure statement that is in conformity with the Federal Reserve Board regulations for consumer credit transactions and limits an exemption from regulation for nonprofit organizations offering debt adjustment services. Finally, it clarifies that consumer credit transactions are not subject to the statutory rate of interest on business transactions. According to the Banking Department's testimony, this bill will ensure that companies do not use title pawning to avoid licensing. It clarifies New Hampshire RSA 399-B and clarifies certain exemptions to truly charitable organizations. There have been some recent incidents where the consumer has lost significantly when pawning title. What is often misunderstood is that the consumer is signing over the title, this is not a lien on the title. They do have the option to repurchase. This bill is attempting to close the licensing loophole. The Banks Committee unanimously recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 342, relative to the payment of recording fees for mortgage discharges and relative to notification of the discharge to the payor of the final payment in satisfaction of the mortgage. Banks Committee. Vote: 6-0. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 342 will allow the lender to collect from the borrower. The cost assessed by the register of deeds to record a discharge of a mortgage after written disclosure is provided to the borrower and requires the lender to provide a written confirmation of the discharge within a 60 day period to the payor of the final payments in satisfaction of the mortgage. The bill will require the lender to spell out, at the signing of the mortgage, that a reasonable fee will be charged as part of the cost of recording the mortgage. This bill will codify a long standing lending practice. It is not supposed to be cost shifting. The Banks Committee was unanimous in recommending ought to pass.

Adopted.

Ordered to third reading.

HB 580-FN, providing that the proper place for filing security interests on manufactured housing is in the office where mortgages or real estate are filed or recorded. Banks Committee. Vote: 6-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1091s
08/09

Amendment to HB 580-FN

Amend the title of the bill by replacing it with the following:

AN ACT providing that the proper place for filing security interests on manufactured housing is in the office where mortgages on real estate are filed or recorded.

SENATOR FRASER: Mr. President, HB 580 is simply a straightforward bill that clarifies, providing that the proper place for filing security interests on manufactured housing is in the office where mortgages or real estate is filed or recorded. The Banks Committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 611-FN, making state securities laws comply with the National Securities Markets Improvement Act. Banks Committee. Vote: 6-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1244s

09/08

Amendment to HB 611-FN

Amend the bill by deleting section 2 and renumbering sections 3-25 to read as 3-24, respectively.

Amend RSA 421-B:2, V-e as inserted by section 2 of the bill by replacing it with the following:

V-e. "Federal covered security" means any security that is a covered security under Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated thereunder.

Amend the introductory paragraph of RSA 421-B:4, V as inserted by section 8 of the bill by replacing it with the following:

V. A person who is an investment adviser is a fiduciary and has a duty to act primarily for the benefit of the person's clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser and the clients and the circumstances of each case, an investment adviser shall not engage in unethical business practices which constitute violations of paragraph I, including the following:

Amend the concluding paragraph of RSA 421-B:4, V as inserted by section 8 of the bill by replacing it with the following:

The conduct set forth above is not inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices, shall be deemed an unethical business practice. The federal statutory and regulatory provisions referenced in this paragraph shall apply to investment advisers, regardless of whether the federal provision limits its application to advisers subject to federal registration.

Amend RSA 421-B:6, VIII as inserted by section 9 of the bill by replacing it with the following:

VIII. Under the provisions of NSMIA and this chapter, until October 11, 1999, if a federal covered adviser fails to or refuses to pay fees pursuant to RSA 421-B:31 prior to acting as a federal covered adviser in this state, licensure as an investment adviser of such federal covered adviser shall be required in this state.

Amend RSA 421-B:8, I as inserted by section 12 of the bill by replacing it with the following:

I. Every broker-dealer or issuer-dealer doing business in this state unless otherwise directed shall, within 60 days after the close of the fiscal year, make and transmit to the secretary of state a filing under oath of its chief managing officer showing or providing the financial statement, changes in management, changes in ownership, and any significant changes in the method of doing business for the preceding fiscal year, ***except as provided by section 15(h) of the Securities Exchange Act of 1934 in the case of a broker-dealer, and section 222 of the Investment Advisers Act of 1940 in the case of an investment adviser.*** Said filing shall include statements or periodic reports filed with any regulatory, state or federal authority or exchange if so directed by order or rule of the secretary of state.

Amend RSA 421-B:8, XIV as inserted by section 14 of the bill by inserting after subparagraph (c) the following new subparagraph:

(d) Every investment adviser that has its principal place of business in a state other than this state shall maintain such books or records as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser:

(1) Is registered or licensed as such in the state in which it maintains its principal place of business; and

(2) Is in compliance with the applicable books and records requirements of the state in which it maintains its principal place of business.

Amend the introductory paragraph of RSA 421-B:11, I as inserted by section 15 of the bill by replacing it with the following:

I. It is unlawful for any person to offer or sell any security in this state unless it is registered under this chapter [or], the security or transaction is exempted under RSA 421-B:17, *or it is a federal covered security for which the fee has been paid and documents have been filed as required by paragraph I-a of this section.*

Amend the introductory paragraph of RSA 421-B:11, I-a(e) as inserted by section 15 of the bill by replacing it with the following:

(e) No later than 15 days after the first sale in this state of covered securities under section 18(b)(4)(D), a notice shall be filed which includes:

Amend RSA 421-B:11, I-b as inserted by section 15 of the bill by replacing it with the following:

I-b. Until October 11, 1999, the secretary of state may require the registration of any covered security for which a nonpayment or underpayment of fees has not been promptly remedied following written notification from the secretary of state of the nonpayment or underpayment of such fees. An issuer shall be considered to have promptly remedied the nonpayment or underpayment of fees if they are remitted to the secretary of state within 15 days following such person's receipt of written notification from the secretary of state.

SENATOR FRASER: Mr. President, HB 611 as amended is to make New Hampshire law comply with the National Securities Market Improvement Act which preempted the states from regulating certain areas of securities business. The bill was requested by the New Hampshire Bureau of Securities Regulation. There has been a tremendous amount of work provided in this bill, especially over in the House and a number of parties that were involved to reach this agreement on this bill. The committee was unanimous in recommending ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 792-FN-L, prohibiting trusts and other legal devises from being used to shelter wealth for the purposes of medicaid eligibility. Banks Committee. Vote: 5-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill has been given a lot of work since last year. What it does is to eliminate a repeal in statute regarding trusts that are used to hide wealth. This will continue the prohibition against people putting their money into trusts so that they appear really impoverished so that they can receive medicaid. The prohibition was originally a part of HB 32 and the

people who were starting to TAPE INAUDIBLE state dollars away from those people who are truly in need of assistance. The committee recommends this bill as ought to pass and it was unanimous.

Adopted.

Ordered to third reading.

HB 805, relative to homestead rights and revocable trusts. Banks Committee. Vote: 4-0. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill declares that a person who transfers property into a revocable trust shall not lose homestead rights unless those homestead rights are expressly released. A homestead right is when you lose your money and they can't take your home and leave you homeless, because you have a right to the homestead. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HJR 2, urging the members of Congress to support and pass the Family Forestland Preservation Tax Act. Environment Committee. Vote: 7-0. Ought to pass with amendment, Senator F. King for the committee.

1997-1241s

03/09

Amendment to HJR 2

Amend the resolution by inserting after the first paragraph after the resolving clause the following new paragraph:

That copies of this resolution be sent by the house clerk to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the chairpersons of committees of the United States Congress having jurisdiction over estate taxes and capital gains taxes, the Administrator of the United States Environmental Protection Agency, and each member of the New Hampshire congressional delegation.

SENATOR F. KING: House Joint Resolution 2 urges congress to adopt a Family Forest Land Preservation Act, which is the result of four years of work with the Northern Forest land Council. The council has been meeting to discuss ways of preserving and protecting family forest. Specifically, this act reduces federal estate taxes for heirs who practice long term forest management. It allows capital gains to be adjusted for inflation. It allows land owners to deduct forest management expenses. Presently, these tax codes were countered to sell land and resource stewardship because heirs are frequently forced to subdivide their land or liquidate timber to pay estate taxes. The committee amendment provides for the resolution, once passed, to be sent to various members of congress. This was inadvertently omitted during drafting. The Environment Committee unanimously recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 810-FN-A, appropriating certain funds from the highway surplus account to the department of transportation. Finance Committee. Vote: 6-0. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: House Bill 810 appropriates, from the highway surplus account to the department of transportation, funds for much needed highway improvement projects. In order to get critical road construction underway, especially here in New Hampshire, where the construction season is so short, the bidding process must begin as soon as possible. Funding proposed projects now using the highway surplus account will allow the Department of Transportation to get these projects underway so that they can be completed this year. The highway expenditures covered by this bill, have been removed from the House approved budget. There is sufficient money in the highway surplus account to cover this appropriation. The committee on Finance recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SJR 2, relative to federal funding under the Individuals with Disabilities Education Act.

SENATE CONCURS WITH HOUSE AMENDMENT

SJR 2, relative to federal funding under the Individuals with Disabilities Education Act.

Senator Rubens moved to concur.

Adopted.

Senators Francoeur and D. Wheeler are in opposition to the motion of concurrence on SJR 2.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 60, excluding claims against New Hampshire hospital which are under \$500 from the jurisdiction of the state board of claims.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 60, excluding claims against New Hampshire hospital which are under \$500 from the jurisdiction of the state board of claims.

Senator J. King moved to concur.

Adopted.

ANNOUNCEMENTS

RESOLUTION

Senator Podles moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, May 13, 1997, at 10:00 a.m..

Adopted.

LATE SESSION**Third Reading and Final Passage**

HB 128, relative to state regulation of participation by foreign banks in the financial markets of New Hampshire.

HB 157, requiring persons marketing small consumer loans by offering inducement checks to print a disclosure on the inducement checks.

HB 190, relative to interstate banking and branching.

HB 258-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies.

HB 327, relative to pledges for loans, finance charge disclosure statements, debt adjusters, and consumer credit transactions.

HB 342, relative to the payment of recording fees for mortgage discharges and relative to notification of the discharge to the payor of the final payment in satisfaction of the mortgage.

HB 580-FN, providing that the proper place for filing security interests on manufactured housing is in the office where mortgages or real estate are filed or recorded.

HB 611-FN, making state securities laws comply with the National Securities Markets Improvement Act.

HB 792-FN-L, prohibiting trusts and other legal devices from being used to shelter wealth for the purposes of Medicaid eligibility.

HB 805, relative to homestead rights and revocable trusts.

HB 810-FN-A, appropriating certain funds from the highway surplus account to the department of transportation.

HJR 2, urging the members of Congress to support and pass the Family Forestland Preservation Tax Act.

Senator J. King moved that the Senate now adjourn until Tuesday, May 13, 1997 at 10:00 a.m..

Adopted.

Adjournment.

May 13, 1997

The Senate met at 10:00 a.m..

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

I have come to know you as a group of people who care as much about the spirit of this state as you do about its budget. But what if you had to choose between accepting a budgetary deficit, that third rail running across the landscape of New Hampshire politics, between that or endorsing a different, and I think, more ominous type of shortfall – a deficit of morality, ethics and values in our life together? If you had to choose, which one of those two would you go for? Now there is an uncomfortable, obnoxious and yet essential question for you and for the rest of us to chew on as we struggle to continually remind ourselves of what really matters. So vote carefully and well, my friends, and watch out for that third rail, remembering that there are many different types of deficits and taxes that can kill and that not all of them have to do with money.

Let us pray: Lord of an endless surplus, preserve us all from any cramped and narrow perspective that would keep us from seeing past the

numbers to what these numbers actually represent. Remind us that it would be too bad to avoid political death if the price for that were to be spiritual starvation and show us how to step over, not trip over, all those many rails that criss cross our days.

Amen

Senator Larsen led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

NOTICE OF RECONSIDERATION

Senator Pignatelli served notice of reconsideration on **HB 792**, prohibiting trusts and other legal devises from being used to shelter wealth for the purposes of Medicaid eligibility.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 4, relative to patient information.

SENATE NON CONCURS AND REQUEST A COMMITTEE OF CONFERENCE

SB 4, relative to patient information.

Senator Danais moved to non concur and requests a committee of conference.

Adopted.

The president, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Danais, Squires, K. Wheeler

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 21, excepting persons who are 17 years old and graduated from high school from the youth employment law.

SENATE NON CONCURS AND REQUEST A COMMITTEE OF CONFERENCE

SB 21, excepting persons who are 17 years old and graduated from high school from the youth employment law.

Senator Danais moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Squires, Francoeur, Pignatelli

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 115-L, establishing a committee to study issues relating to the withdrawal of a receiving district from an area school district.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 115-L, establishing a committee to study issues relating to the withdrawal of a receiving district from an area school district.

Senator Roberge moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 167-FN, relative to the regulation of naturopathic practitioners.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 167-FN, relative to the regulation of naturopathic practitioners.

Senator J. King moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 138, establishing teacher appreciation day.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 138, establishing teacher appreciation day.

Senator Rubens moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 338, repealing certain requirements relative to the duty to deliver a copy of process to prisoners.

and requests a committee of conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said committee of conference:

REPRESENTATIVES:	Andrew Christie, Jr.
	Herbert Hansen
	Randy Lyman
	Yvonne Coulombe

SENATE ACCEDES TO THE HOUSE REQUEST

HB 338, repealing certain requirements relative to the duty to deliver a copy of process to prisoners.

Senator Podles moved to accede to the House request for a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Podles, Pignatelli, Gordon

COMMITTEE REPORTS

HB 453, relative to the bank commissioner's regulation of sales finance companies and retail sellers. Banks Committee. Vote: 6-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1281s
09/01

Amendment to HB 453

Amend the bill by replacing all after the enacting clause with the following:

1 Definitions. RSA 361-A:1 is repealed and reenacted to read as follows:

361-A:1 Definitions. The following terms as used in this chapter shall have the following meanings unless the context or subject matter otherwise requires:

I. "Balloon payment" means any retail installment contract repayment option under which:

(a) The retail buyer is required to repay the entire amount of any outstanding balance as of a specified date or at the end of a specified period of time, as determined in accordance with the terms of the retail installment contract pursuant to which such credit is extended;

(b) The aggregate amount of the minimum periodic payments required would not fully amortize such outstanding balance by such date or at the end of such period; and

(c) The balloon payment is at least twice the amount of one periodic installment payment under a payment plan that provides for equal periodic installment payments during the term of the balloon contract that precedes the due date of the final balloon payment.

II. "Balloon retail installment contract" or "balloon contract" means a retail installment contract that contains a balloon payment feature.

III. "Cash sale price" means the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail installment contract, if such sale had been a sale for cash instead of a retail installment transaction. The cash sale price may include any taxes, registration, license and other fees and charges for accessories and their installation and for delivery, servicing, repairing or improving the motor vehicle.

IV. "Documentary fees" mean the fees for filing, recording or investigating, perfecting and releasing or satisfying a retained title or a lien created by a retail installment contract, and shall not exceed the actual cost assessed by the department of safety, division of motor vehicles, or other state or local agency for filing, recording or investigating, perfecting and releasing or satisfying such title or lien.

V. "Finance charge" means the amount agreed upon between the buyer and the seller, as limited in this chapter, to be added to the cash sale price, the amount, if any, included for insurance and other benefits, if a separate charge is made therefor, and documentary fees, in determining the time price.

VI. The "holder" of a retail installment contract means the retail seller of the motor vehicle under or subject to the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee.

VII. "Motor vehicle" means any device propelled or drawn by any power other than muscular power, in, upon or by which any person or property is or may be transported or drawn upon, a highway, excepting power shovels, road machinery, buses, agricultural machinery, house and boat trailers, all-terrain vehicles, snowmobiles, and similar recreational vehicles designed primarily for off-road use.

VIII. "Person" means an individual, partnership, corporation, association and any other group however organized.

IX. "Retail buyer" or "buyer" means a person who buys a motor vehicle from a retail seller and who executes a retail installment contract either with the retail seller or with any lender.

X. "Retail installment contract" or "contract" means an agreement pursuant to which the title to, the property in or a lien upon the motor vehicle, which is the subject matter of a retail installment transaction, is retained or taken by a sales finance company indirectly from a retail seller or directly from a retail buyer, as security, in whole or in part, for the retail buyer's obligation. The term includes a promissory note, security agreement, finance agreement, chattel mortgage, conditional sales contract, title loan agreement, rent-to-own agreement, and contract for the bailment or leasing of a motor vehicle, any of which constitutes a "credit sale" under Federal Reserve Board Regulation Z, Truth-in-Lending, 12 C.F.R. 226, as amended from time to time, and a lease as defined in RSA 361-D (except as limited by RSA 361-A:7-a).

XI. "Retail installment transaction" means any consumer credit transaction as defined in RSA 358-K:1, V, evidenced by a retail installment contract entered into between a retail buyer and a retail seller, or between a sales finance company and a retail buyer, wherein the retail buyer buys a motor vehicle subject to a retail installment contract at a time price payable in one or more deferred installments. The cash sale price of the motor vehicle, the amount included for insurance and other benefits if a separate charge is made therefor, documentary fees and the finance charge, which may include insurance and other benefits, shall together constitute the time price.

XII. "Retail seller" or "seller" means a person who sells a motor vehicle to a retail buyer under or subject to a retail installment contract.

XIII. "Sales finance company" means a person engaged, in whole or in part, directly or indirectly in the business of providing financing to one or more retail buyers, or in the business of purchasing retail installment contracts from one or more retail sellers. The term includes but is not limited to any federally chartered bank, savings bank, trust company, credit union, cooperative bank, finance company, lending agency, industrial bank, or investment company, if so engaged. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon, nor does it include a retail seller who:

(a) Makes a retail installment contract and assigns such contract either within 5 business days, if the contract requires monthly payments, or within 2 business days, if the contract requires payments more frequently than monthly, of the contract's execution by the retail buyer and retail seller; or

(b) Has 4 or fewer retail installment contracts outstanding at any time; or

(c) Makes retail installment contracts to employees for the purchases of motor vehicles solely from the retail seller employer.

XIV. "Commissioner" means the bank commissioner.

2 Licensing Requirements; Retail Sellers and Sales Finance Companies. Amend RSA 361-A:2, I to read as follows:

I. No person shall engage in the business of a sales finance company or retail seller in this state without a license therefor as provided ~~[herein]~~ **in this chapter**. No **federally chartered bank, savings bank, trust company, credit union, cooperative bank,** or industrial bank shall be required to obtain such a license but shall comply with ~~[all of]~~ the ~~[other]~~ provisions of ~~[this chapter]~~ **RSA 361-A:7-10, unless otherwise exempted in this chapter.**

3 New Paragraph; Licensing Requirements; Retail Sellers and Sales Finance Companies. Amend RSA 361-A:2 by inserting after paragraph II the following new paragraph:

II-a. Sales finance company license applicants shall at the same time file with the commissioner a \$25,000 surety bond to the state for the use of the state and any person who may have a cause of action against the principal in the bond under the provisions of this chapter, and conditioned that the principal will conform to and abide by each provision of this chapter and will pay to the state and to any such person any sum that may become due or owing under this chapter from the principal of the bond to the state or to such person. Recovery against the bond may be made by the state after due notice and hearing in accordance with the provisions of RSA 541-A, and by any such person who may have obtained a final judgment in a court of competent jurisdiction naming said principal. The surety bond shall include a provision requiring the surety to give written notice to the commissioner 10 days in advance of the cancellation or termination of the bond. A separate bond shall be required for each different name under which a sales finance company conducts its business in this state.

4 Licensing Requirements; Retail Sellers and Sales Finance Companies. Amend RSA 361-A:2, V(a) to read as follows:

V(a) Upon the filing of the application for a sales finance company license and payment of the required fee, if the bank commissioner determines that the applicant's financial resources and responsibility, experience, personnel, and record of past or proposed conduct warrant the public's confidence and that the business will be operated lawfully, honestly, and fairly within the purposes of this chapter, the bank commissioner shall enter an order approving such application and shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of this chapter. Each **sales finance company** license shall expire on December 31 of each calendar year, **and each retail seller license shall expire on April 30 of each calendar year.** No sales finance company licensee shall transact any business provided for by this chapter under any other trade names unless the licensee holds a separate license for the business conducted under the other trade name.

5 Rulemaking. Amend RSA 361-A:2, VI to read as follows:

VI. The bank commissioner shall adopt rules, pursuant to RSA 541-A, relative to ~~[licensing under this section]~~ **the administration and enforcement of this chapter.**

6 New Paragraph; Annual Report; Penalties for Failure to Disclose or Underdisclosure. Amend RSA 361-A:2-b by inserting after paragraph IV the following new paragraph:

V. A licensee who files an annual report under this section which fails to disclose or materially underdiscloses retail installment contracts made during the reporting year may, after opportunity for hearing pursuant to RSA 541-A, be subject to a fine of not more than \$1,000 and to license revocation or suspension pursuant to RSA 361-A:3.

7 Suspension or Revocation of Licenses. Amend RSA 361-A:3, I(b) to read as follows:

(b) Willful failure to comply with any provision of this chapter [~~relating to retail installment contracts~~];

8 New Section; Cease and Desist Orders. Amend RSA 361-A by inserting after section 3 the following new section:

361-A:3-a Cease and Desist Orders. Whenever the commissioner has reasonable cause to believe that any person is engaging in the business of a sales finance company or retail seller without obtaining a license as provided in this chapter, the commissioner may, in addition to all actions provided for in this chapter, enter an order requiring such person to cease and desist from such violation. If any person refuses to obey such order, an action may be brought by the commissioner or by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. The court shall have the power to enforce obedience to such injunction, in addition to all the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both.

9 Fine Increased; Powers of Bank Commissioner. Amend RSA 361-A:5 to read as follows:

361-A:5 Powers of Bank Commissioner. The bank commissioner shall have the power to issue a subpoena to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before ~~him~~ **the commissioner** in any matter over which ~~he~~ **the commissioner** has jurisdiction, control or supervision pertaining to the provisions of this chapter. ~~He~~ **The commissioner** shall have the power to administer oaths and affirmation to any person whose testimony is required. If any person shall refuse to obey any such subpoena or to give testimony or to produce evidence as required thereby, any justice of the superior court may, upon application and proof of such refusal, order the issuance of a subpoena, or subpoena duces tecum, out of the superior court, for the witness to appear before the superior court to give testimony, and to produce evidence as required thereby. Upon filing such order in the office of the clerk of the superior court, the clerk shall issue such subpoena, as directed, requiring the person to whom it is directed to appear at the time and place therein designated. If any person served with any such subpoena shall refuse to obey the same, and to give testimony, and to produce evidence as required thereby, the bank commissioner may apply to any justice of the superior court who, after proof of such refusal, shall issue such citation, directed to any sheriff, for the arrest of such person, and, upon ~~his~~ **such person's** being brought before such justice, proceed to a hearing of the case. The ~~justice~~ **court** shall have power to enforce obedience to such subpoena, and the answering of any question and the production of any evidence that may be proper, by a fine not exceeding ~~[\$100]~~ **\$10,000** or by imprisonment ~~in the county jail~~, or by both.

10 Assistants; Payment. Amend RSA 361-A:6 to read as follows:

361-A:6 Assistants. For the enforcement of the provisions ~~hereof~~ **of this chapter**, the bank commissioner is authorized to appoint, subject to the provisions of the personnel law, such personnel as are necessary. The salary, traveling expenses, and all expenses of administration and

enforcement of the provisions [~~hereof~~] **of this chapter** shall be paid out of fees received from licenses issued [~~hereunder~~] **under this chapter, and funds collected pursuant to RSA 383:11.**

11 Examinations. Amend RSA 361-A:6-a, II to read as follows:

II. The affairs and records of every sales finance company licensee or person shall be subject at any time to periodic, special, regular, or other examination by the banking department with or without notice to the licensee ~~or person~~. **Those licensees or persons that maintain their files and business documents in another state shall appoint a New Hampshire agent and shall return such files and documents to their principal New Hampshire office or the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the banking department. Failure to provide files and documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to provide files and documents within 60 days after being requested to do so by the banking department shall be sufficient cause for license revocation, suspension, or denial.**

12 Requirements; Retail Installment Contracts. Amend RSA 361-A:7, I to read as follows:

I.(a) A retail installment contract shall be in writing, shall be signed by [~~both~~] the buyer and **(1) for direct loans, the sales finance company; or (2) for indirect loans,** the seller and shall be completed as to all essential provisions or by memorandum as provided in paragraph VI prior to the signing of the contract by the buyer.

(b) The printed portion of the contract, other than instructions for completion, shall be in at least 8 point type. The contract shall contain in a size equal to at least 10 point bold type: A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case, and the following notice: "Notice to the Buyer: 1. Read this contract before signing. 2. You are entitled to an exact copy of the contract you sign."

(c) The seller shall, **for an indirect loan, or the sales finance company shall, for a direct loan,** deliver to the buyer, or mail to [~~him~~] **the buyer** at [~~his~~] **the** address shown on the contract, a copy of the **signed** contract [~~signed by the seller~~]. Until the seller **or sales finance company** does so, a buyer who has not received delivery of the motor vehicle shall have the right to rescind [~~his~~] **the** agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if such goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least 10 point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

(d) The contract shall contain the names of the seller and the buyer, **if an indirect loan, or the names of the sales finance company and the buyer, if a direct loan,** the place of business of the seller, **if an indirect loan, or the sales finance company, if a direct loan,** the legal residence or place of business of the buyer as specified by the buyer and, **for an indirect loan,** a description of the motor vehicle including its make, year [~~model~~], model and identification numbers or marks. **For a direct loan, the sales finance company shall retain in the loan file a copy of the purchase and sales agreement between the buyer**

and the seller that contains a description of the motor vehicle that is substantially similar to the description required in the contract for an indirect loan.

13 Time Balance Installments. Amend RSA 361-A:7, II(h) and the unnumbered concluding subparagraphs of RSA 361-A:7, II to read as follows:

(h) The time balance, which is the sum of (f) and (g), payable in installments by the buyer ~~[to the seller]~~, the number of installments, the amount of each installment and the due date or period thereof.

The above subparagraphs in paragraph II need not be stated in the sequence or order set forth. Additional paragraphs may be included to explain the calculations involved in determining the stated time balance to be paid by the buyer.

14 Requirements; Insurance. Amend RSA 361-A:7, III to read as follows:

III. The amount, if any, included for insurance, which may be purchased by **or protects** the holder of the retail installment contract, shall not exceed the applicable premiums chargeable in accordance with the rates filed with the insurance commissioner. If dual interest insurance on the motor vehicle is purchased by the holder, ~~[he]~~ **the holder** shall, within 30 days after execution of the retail installment contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer shall have the privilege of purchasing ~~[such]~~ insurance from an agent or broker of ~~[his]~~ **the buyer's** own selection authorized by the insurance commissioner to do business in the state, but in such case the inclusion of the **dual interest** insurance premium in the retail installment contract shall be optional with the seller.

15 Prohibitions; Pyramiding of Delinquency or Collection Charges. Amend RSA 361-A:7, V to read as follows:

V. The holder may, if the contract so provides, collect a **single** delinquency and collection charge on each installment in default for a period not less than 10 days in an amount not in excess of 5 percent of ~~[each]~~ **the** installment ~~[or 6 percent per annum on the total unpaid balance, whichever is greater]~~ **in default**. In addition to such delinquency and collection charge, the contract may provide for the payment of reasonable attorneys' fees where such contract is referred for collection to an attorney not a salaried employee of the holder of the contract plus the court costs and the financier's out-of-pocket collection expenses. **The pyramiding of delinquency or the collection of unfair late charges as prohibited in Federal Reserve Regulation AA, 12 C.F.R. 227.15, as amended from time to time, is prohibited.**

16 Requirements; Retail Installment Contracts. Amend RSA 361-A:7, VII to read as follows:

VII. ~~[Upon]~~ **Within 5 business days of receipt of** written request from the buyer ~~[at reasonable intervals]~~, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments ~~[and]~~ **or** the total amount unpaid under such contract, **or both, as specified in the request.** A buyer shall be given a written or stamped receipt for any payment when made in cash.

17 New Paragraph; Prohibitions; Retail Installment Contracts. Amend RSA 361-A:7 by inserting after paragraph VIII the following new paragraph:

IX. The following provisions are prohibited in retail installment contracts and shall not be enforceable:

(a) Any provision permitting the holder to waive the buyer's right to notice of default.

(b) Any provision permitting the holder to accelerate the principal balance under the contract for default for any cause other than:

(1) Non-payment of any amount due under the terms of the contract; or

(2) Failure to insure the vehicle which secures the contract against loss, if such insurance is required by the terms of the contract and except where the contract provides for the holder to purchase such insurance and collect the premiums for the insurance from the borrower.

(c) Any provisions permitting the holder to:

(1) Declare the note in default prior to 10 days following failure to make any installment payment due; or

(2) Add any charge for vehicle repairs to the principal balance of the contract after the contract has been executed; or

(3) Assess a prepayment penalty on a contract with a term of less than 6 years.

18 Direct Loans by Sales Finance Companies. Amend RSA 361-A:7-a to read as follows:

361-A:7-a Direct Loans by Sales Finance Companies, *and Exceptions*. The provisions of RSA 361-A:7 shall apply to a sales finance company which provides direct loans to retail buyers for the purchase of motor vehicles from retail sellers, *except RSA 361-A:7, I and II shall not apply to federally chartered banks, savings banks, trust companies, credit unions, cooperative banks or industrial banks which do not act as sellers, but provide direct loans to retail buyers and supply a disclosure statement in conformity with Federal Reserve Board Regulation Z Truth-in-Lending, 12 C.F.R. 226, as amended from time to time. In addition, RSA 361-A:7, I-IV-a and VI-IX and RSA 361-A:8 shall not apply to a lease as defined in RSA 361-D.*

19 New Section; Balloon Payment Loans. Amend RSA 361-A by inserting after section 8 the following new section:

361-A:8-a Balloon Payment Loans.

I. The general court recognizes that both borrowers and lenders may wish to have balloon retail installment contracts available as a credit option for the purchase of motor vehicles. The general court also recognizes the potential for confusion or misunderstanding by borrowers of the nature and terms of balloon retail installment contracts, and for misleading lending practices. To this end, the general court hereby authorizes the making of balloon retail installment contracts and authorizes the bank commissioner to adopt rules pursuant to RSA 541-A to protect borrowers from misleading lending practices.

II. Notwithstanding the provisions of RSA 361-A:8, III, a retail installment contract for a new motor vehicle may provide for a balloon payment.

III.(a) Balloon contracts shall contain a provision requiring the lienholder to accept return of the motor vehicle that secures the balloon loan, without penalty, or additional cost, payment or expense to the retail buyer in satisfaction of the balloon payment due under the balloon contract;

(b) Collection of any amounts due under the terms of the balloon contract that have accrued during the period of the contract that precedes the balloon payment due date shall not violate the prohibition contained in subparagraph (a);

(c) If the balloon contract so provides, a disposition fee may be charged to the retail buyer, provided such fee does not exceed \$250, or such greater or lesser amount announced by the commissioner, to annually adjust the disposition fee based upon changes in the "all items" category of consumer prices compiled and reported by the U.S. Department of Labor, Bureau of Labor Statistics; and

(d) Any cost to the retail buyer associated with the return of a motor vehicle under a balloon contract pursuant to this paragraph shall not exceed the total of the disposition fee, excess mileage fee, excess wear and tear fee, if any, and any accrued amounts due in accordance with subparagraph (b).

IV. The commissioner shall adopt rules, pursuant to RSA 541-A, to implement the purpose and requirements of this section, including, but not limited to, balloon contract disclosures and balloon payment refinancing disclosures. Any disclosures required by rules adopted by the commissioner pursuant to this paragraph shall be in addition to disclosures required by the federal Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq).

V. Balloon retail installment contracts shall contain a provision that affords retail buyers the option to refinance the balloon payment at an annual percentage rate no greater than the annual percentage rate under the balloon contract. Creditors under this paragraph shall be entitled to deny a refinance request if the retail buyer would not have been eligible for the balloon contract, based on credit history or other credit underwriting standards established by written policy of the creditor. The creditor's credit underwriting standards for refinancing a balloon payment shall be substantially identical to the underwriting standards used by the creditor when the creditor issued a commitment to the borrower to fund the original balloon retail installment contract. Refinancing of balloon payments shall be subject to the requirements of this chapter. The contract evidencing such refinancing shall be deemed a retail installment contract. An estimate of the monthly payment amount for a refinanced balloon payment shall be provided in writing by the creditor to the retail buyer upon the buyer's request. Applications for balloon contracts shall include a notice in at least 10 point bold type that the balloon contract applicant is entitled, upon request, to receive a written estimate of the monthly payment amount for a balloon payment refinancing in accordance with the creditor's then existing refinance programs prior to entering into a balloon contract.

VI. A sales finance company may charge an excess mileage fee associated with a motor vehicle that is returned to the lienholder pursuant to paragraph III of this section, provided that no such fee shall be charged when the odometer of the motor vehicle securing the balloon contract indicates the vehicle was driven less than the maximum mileage limit set forth in the balloon contract. Any excess mileage charges payable by the retail buyer shall be clearly set forth in the balloon contract.

VII. A lienholder may assess a fee for excess wear and tear associated with a motor vehicle returned pursuant to paragraph III of this section. Any charges for excess wear and tear payable by the retail buyer shall be clearly set forth in the balloon contract.

20 Penalties. Amend RSA 361-A:11, III to read as follows:

III. Any person violating the provisions of RSA 361-A:7 or RSA 361-A:8 ***or engaging in the business of a sales finance company without a license if a license is required under this chapter*** shall be barred from recovering any finance charge, delinquency, or collection charge on the contract. ***Where no finance charge is payable under***

the terms of the contract, a person engaging in the business of a sales finance company without a license shall be barred from recovering any amount in excess of the wholesale market value of the vehicle, if the vehicle was purchased by the seller at a wholesale auction or other wholesale outlet, or the trade-in value of the vehicle if the seller acquired the vehicle in trade. Such value shall be that quoted for New Hampshire or the New England region in a value quotation publication generally recognized by the motor vehicle industry and as specified by the commissioner in rules adopted pursuant to RSA 541-A.

21 Definition; "Adjusted Capitalized Cost". RSA 361-D:1, I is repealed and reenacted to read as follows:

I. "Adjusted capitalized cost" equals the gross capitalized cost less the capitalized cost reduction, and is the amount used by the lessor in calculating the base periodic payment.

22 Definition; "Capitalized Cost Reduction". RSA 361-D:1, III is repealed and reenacted to read as follows:

III. "Capitalized cost reduction" means the total amount of any rebate, cash payment, net trade-in allowance, and noncash credit that reduces the gross capitalized cost.

23 New Paragraph; Definition; "Gross Capitalized Cost". Amend RSA 361-D:1 by inserting after paragraph VI the following new paragraph:

VI-a. "Gross capitalized cost" means the amount agreed upon by the lessor and the lessee as the value of the leased property and any items that are capitalized or amortized during the lease term, including but not limited to taxes, insurance, service agreements, and any outstanding balance from a prior loan or lease.

24 Definition; "Realized Value". Amend RSA 361-D:1, XI(b) to read as follows:

(b) In the event of the total loss or destruction of the vehicle, the amount described in RSA ~~[361-D:17, H]~~ **361-D:16, II**.

25 Lease Agreement; Contents. RSA 361-D:3, III(q) is repealed and reenacted to read as follows:

(q) The gross capitalized cost, identified as "gross capitalized cost", with a descriptive explanation such as "the agreed upon value of the vehicle (state the amount) and any items you pay for over the lease term (such as service contracts, insurance, and any outstanding prior loan or lease balance)," and a statement informing lessees that they may request an itemization of the components of the gross capitalized cost, with the amount of each such component separately itemized from the lessor or lessor's agent prior to executing the lease.

26 Lease Agreement; Contents. RSA 361-D:3, III(s) is repealed and reenacted to read as follows:

(s) The adjusted capitalized cost, using the term "adjusted capitalized cost" and a descriptive explanation, used in calculating your base (periodic) payment.

27 Repeal. The following are repealed:

I. RSA 361-A:9, relative to credit upon anticipation of payments.

II. RSA 361-A:10, relative to extending retail installment contracts.

III. RSA 361-D:1, II, relative to the definition of capitalized cost.

IV. RSA 361-D:9, VI, relative to value of motor vehicle for purposes of total loss notice and waiver of GAP amount.

28 Effective Date.

I. RSA 361-A:1, VII as inserted by section 1 of this act and sections 3 and 6 of this act shall take effect January 1, 1998.

II. RSA 361-A:1, I and II as inserted by section 1 of this act and section 19 of this act shall take effect 30 days after its passage.

III. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill changes and inserts certain definitions under RSA 361-A, relative to regulation of sales finance companies and retail sellers and RSA 361-D, relative to motor vehicle leasing. The bill increases penalties for failure to comply with RSA 361-A and changes the requirements and prohibitions for retail installment contracts. The bill makes the bank commissioner's rulemaking authority under RSA 361-A discretionary rather than mandatory. The bill authorizes balloon payments in retail installment contracts for new motor vehicles and authorizes the bank commissioner to regulate such balloon loan contracts. The bill also makes technical corrections in RSA 361-D.

SENATOR FRASER: Mr. President, the bill primarily amends RSA 361-A. RSA 361-A regulates sales finance companies and retail sellers who fund or arrange financing for motor vehicles. The bill updates the 1961 statute in a number of areas to reflect modern lending practices. The bill also provides the banking department with more effective enforcement mechanisms for unlicensed activity and adds some additional consumer protection to the existing law. Additionally, the bill makes provisions in RSA 361-A for the making of motor vehicle balloon loans while providing certain disclosure requirements specifically designed for this type of loan. Finally, the bill amends RSA 361-D, New Hampshire's motor vehicle leasing law. These changes conform with RSA 361-D to amendments made by the federal reserve board regulation that served as a model for our 361-D. The committee was unanimous in recommending passage.

Amendment adopted.

Ordered to third reading.

HB 181, prohibiting the sale or distribution of exotic aquatic weeds and increasing certain fees. Environment Committee. Vote: 5-0. Ought to pass with amendment, Senator Johnson for the committee.

1997-1312s

08/09

Amendment to HB 181

Amend RSA 487:24, VII-a as inserted by section 5 of the bill by replacing it with the following:

VII-a. Administration and enforcement of, and exemptions to, the exotic aquatic weed prohibition under RSA 487:16-a. Such rules shall not include the imposition of fines or penalties not otherwise authorized by statute.

SENATOR JOHNSON: HB 181 proposes a \$1.50 increase in the boat registration fee to help combat the negative impact exotic aquatic weeds are having on the states' lakes and ponds. The bill would also prohibit the sale and distribution of these plants in New Hampshire. Aquatic weeds grow rapidly when introduced into a body of water and can destroy a lake's ecosystem. The increase to the boat registration fee that is proposed in this bill, will provide an additional one hundred thirty-five thousand dollars to combat the problems that the exotic aquatic weeds are creating in the environment of our lakes and ponds. The committee amendment clarifies that the administration of this provision by

the Department of Environmental Services does not include the imposition of fines and penalties that are not otherwise authorized by statute. The Environment Committee recommends HB 181 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 196-FN, providing for the regulation of horticultural growing media. Environment Committee. Vote: 5-0. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 196 is a request of the Department of Agriculture, from Markets, and Foods. It establishes a registration and inspection program for horticultural growing media, otherwise known as potting soil. The bill requires the registration and labeling of all potting soil products and establishes a fee structure to cover costs of implementing the program. This undertaking is similar to testing programs that the department presently conducts on other agricultural products. The need for this program arises out of an incident in Deerfield in which school children who were planting marigold seeds where overcome by a petroleum-like smell after opening a bag of potting soil. When tests were done they revealed that the potting soil did contain substances harmful enough to cause human health problems and similar incidents have occurred throughout the state. This bill serves as a preventive. The Environment Committee urges the support of HB 196.

Adopted.

Ordered to third reading.

HB 588-FN, relative to certification of operators of solid waste plants, water treatment plants and wastewater treatment plants, and adding late renewal fees. Environment Committee. Vote: 3-2. Ought to pass with amendment, Senator Russman for the committee.

1997-1320s

10/09

Amendment to HB 588-FN

Amend RSA 332-E:4, II as inserted by section 2 of the bill by replacing it with the following:

The department shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify [him] *the applicant* of [his] *his or her* status in writing.

SENATOR RUSSMAN: Yes, this committee report expands the fees for all of the solid waste operators in terms of DES. What has happened is that they have been using federal funds to subsidize some of these programs and they are no longer being given the money by the federal government. In addition, there are requirements in terms of federal requirements of updating the various operators. Right now, DES puts those on at no costs to the participants, but at the same time, it is like an engineer or a lawyer or what have you, they do require a certification because some of the people are not taking the courses that they require in order to keep up with the more modern techniques of running the various systems. We urge support of the committee recommendation.

SENATOR FRANCOEUR: Senator Russman, on page three of the bill, line 16 - 21, especially on page 19 where it says, "The department shall charge a late fee of fifty percent of the renewal fee, in addition to the

renewal fee if the renewal is late." Is this going to become standard practice in the state, if we are late on a license that we will have to pay a late fee?

SENATOR RUSSMAN: No, except in this particular case. For some reason, DES presently spends over 100 hours annually on the training of this. What is happening is, they send out these notification cards that they must be renewed and a number of the people have virtually just ignored them. For whatever reason they just don't respond. So what they are trying to do...the problem is that they are actually ending up spending more money going back to get the notices sent out again to get these people in there to get renewed. They are hoping that by telling them on the notification that if they don't come in, that there will be a late fee involved. They don't want the late fee, they just want them to come in and do it on time. We are going from twenty-five dollars to fifty dollars, I believe that is what it is, and, there would be a late fee on top of that.

SENATOR FRANCOEUR: I can understand that they don't want people being late, but if I took all of the people that have driving licenses and told them that if they were late, I am going to charge you an additional 50 percent. Would you believe that I don't feel that is fair? I understand that the people are late and it does create a little bit more work, but it does in all licensing.

SENATOR RUSSMAN: I hear what you are saying. I believe that on some of the boards and whatnot, there are late fees for them, not all of them, some have been adopted. I don't know which ones that they are particularly, but I have heard that there are some others that have done the same thing in order to try to get people to be more timely in the renewal of their certification or applications.

Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, McCarley, Patenaude, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Whipple, D. Wheeler, Francoeur, Danais.

Yeas: 20 - Nays: 4

Adopted.

Ordered to third reading.

HB 677-FN, increasing the wetlands excavating and dredging permit fee for major and minor projects. Environment Committee. Vote: 5-0. Ought to pass with amendment, Senator Russman for the committee.

1997-1321s

10/01

Amendment to HB 677-FN

Amend the bill by replacing all after section 2 with the following:

3 Excavating and Dredging Permits; Exemption Added. Amend RSA 482-A:3, IV(b) to read as follows:

(b) Nontidal drainage ditches, culverts, catch basins, and man-made detention ponds that have been legally constructed to collect and convey storm water and spring run-off, and that have been maintained so that wetlands vegetation has not become dominant, *or fire ponds and intake areas of dry hydrants that have been legally constructed to provide water for municipal firefighting purposes as approved by a local fire chief*, may be cleaned out when necessary to preserve their usefulness without a permit from the department. Such drainage facilities, *fire ponds, or intake areas of any hydrants*, may be cleaned out by hand or machine, provided that the facility is neither enlarged nor extended into any area of wetlands jurisdiction of the department of environmental services, dredged spoils are deposited in areas outside wetlands jurisdiction of the department of environmental services, and wetlands or surface waters outside the limits of the constructed drainage facility, *fire pond, or intake area of a dry hydrant*, are neither disturbed nor degraded.

4 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill increases the fee charged per square foot for major and minor projects relative to excavating and dredging wetlands and allows the increased funds to be used to hire staff.

This bill also exempts certain fire ponds and intake areas of dry hydrants from the excavating and dredging permit requirement.

SENATOR RUSSMAN: The House Resource and Recreation Committee supported this bill almost unanimously. The Department of Environmental Services came in with this bill and the New Hampshire Association Conservation Commission also testified in support of it. It increases the fee charged for major, minor impact, increasing the wetlands excavating and dredging permit fee for major and minor project's fee to four cents per square foot. Testimony suggested that this increase was necessary to continue the funding for one and one-half temporary positions at DES as well as one and one-half new temporary positions anticipated to speed up the permitting process. This is in an effort to try to speed up the permitting process. We also added an amendment that would exempt certain minor excavations of legally dug fire ponds, culverts or things of that nature, which would allow people to clean those out without the necessity of going for a permit. So the committee vote on it was 5 - 0 ought to pass.

Amendment adopted.

Ordered to third reading.

Senator Whipple in opposition to HB 677.

HB 121, relative to quality review for accountancy and requiring the board of accounting to adopt administrative rules. Executive Departments and Administration Committee. Vote: 7-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-1245s
05/09

Amendment to HB 121

Amend the title of the bill by replacing it with the following:

AN ACT relative to quality review for accountancy, requiring the board of accountancy to adopt administrative rules, and giving the board of accountancy authority to revoke certain certificates and permits.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 and 3 to read as 3 and 4, respectively:

2 Board's Authority; Revocation of Certificates and Permits. Amend the introductory paragraph of RSA 309-B:6, I to read as follows:

After notice and hearing pursuant to RSA 309-B:8, the board may **revoke, suspend, or** refuse to renew ~~or suspend~~ any certificate or permit issued under RSA 309-B:4 or RSA 309-B:5 or refuse to renew any such certificate or permit for a period of not more than 5 years. The board may reprimand, censure, or limit the scope of practice of any licensee; impose an administrative fine not exceeding \$1,000; or place any licensee on probation, all with or without terms, conditions, and limitations, for any one or more of the following reasons:

AMENDED ANALYSIS

This bill repeals provisions of law which require quality review of public accountancy. The bill requires the board of accountancy to adopt administrative rules. Current law gives the board discretion as to whether or not to adopt administrative rules.

This bill also gives the board of accountancy the authority to revoke certain certificates and permits.

SENATOR WHIPPLE: Current law provides that the board of accountancy may adopt rules; HB 121 creates provisions so the board shall adopt rules that shall include "quality review conduct" and "quality review cost parameters" to insure that "off-site" reviews are not excessive in cost. The genesis of the bill arose from an individual who had been charged two thousand dollars for an "off-site" review that consisted of the individual filling out forms and mailing those forms to an out-of-state firm. House Bill 121 provides for a means to insure that off-site reviews are conducted reasonably and affordably. Peer review is an effective method to maintain a high performance standard for CPAs and PAs and is crucial to protecting the public. More specific peer review rules are necessary to ensure better quality for consumers and greater accountability on behalf of CPAs and PAs. The committee amended the bill to permit the board to revoke accountancy licenses. Currently the board can only refuse to renew or suspend licenses. The ED & A Committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 136, relative to the division of fire standards and training and the fire standards and training commission. Executive Departments and Administration Committee. Vote: 8-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: Currently the Division of Fire Standards and Training and the Fire Standards and Training Commission overlap on many administrative tasks. House Bill 136 causes a separation of powers. Under HB 136, the Division of Fire Standards and Training as nominated by the commissioner of safety shall be responsible for the operation of the fire academy, including tuition, instructor training, and curriculum. The Fire Standards and Training commission will establish minimum education and training standards for employment as a full-time firefighter. The commission shall also act in an advisory capacity to the director of the Division of Fire Standards and Training on various fire-related issues. Under HB 136, rules will be jointly adopted by the commission and the commissioner of safety. No one opposed the bill at the hearing. The committee recommends this bill ought to pass.

Senator D. Wheeler moved to have **HB 136**, relative to the division of fire standards and training and the fire standards and training commission, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 136, relative to the division of fire standards and training and the fire standards and training commission.

HB 149-FN, relative to the regulation of the profession of physical therapy. Executive Departments and Administration Committee. Vote: 5-2. Ought to pass, Senator J. King for the committee.

SENATOR J. KING: Currently, thirteen hundred physical therapists are regulated by the Board of Medicine. In fact, physical therapists make up the largest portion of non-physicians under the Board of Medicine. Under **HB 149**, physical therapists will move from an advisory board under the Board of Medicine to a free standing board administratively attached to health and human services. Thirty states currently have free standing physical therapy boards. The profession is ready to regulate itself with a modest increase from thirty-five dollars to sixty-five dollars in dues. The Physical Therapy Board will be able to financially support itself. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 151-FN-L, establishing comprehensive medical, physical and psychological standards for law enforcement officers. Executive Departments and Administration Committee. Vote: 7-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: House Bill 151-FN-L enables towns to adopt provisions requiring all part-time and full-time police officers, state corrections officers, probation parole officers and any officer with powers of arrest to meet certain medical, physical, and psychological standards established in rules adopted by the police standards and training council. Though the police standards council has mandated entry-level medical exams and physical fitness tests for full-time officers for some 20 years, and though many police departments around the state have already voluntarily adopted rigorous physical and psychological standards, currently, there is no NH statute which suggests that the physical and mental rigors required at the time of hiring be continued throughout the full-time officer's career. Moreover, there are approximately 1,680 part-time police officers in the state of New Hampshire, and would you believe that there are currently no physical or psychological requirements for part-time police officers – not even at the time of hire? Given recent occasions of police using excessive force, it is crucial to public safety and the reputation of the law enforcement industry that officers be physically and mentally fit. In addition, it makes good fiscal sense to keep our law enforcement officers physically fit so as to reduce costly worker's compensation claims. House Bill 151 does not create an unfunded mandate because standards can be voluntarily adopted by municipalities. The strength of **HB 151** is in its power of suggestion. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

Senator Russman in opposition to **HB 151-FN-L**.

HB 210, requiring that an applicant to a planning or zoning board wishing to subdivide property supply the names of holders of conservation, preservation, or agriculture preservation restrictions on the subdivision property, who will then be notified by the board. Executive Departments and Administration Committee. Vote: 4-3. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: House Bill 210 requires that an applicant wishing to subdivide property, supply to a planning or zoning board the names of holders of conservation, preservation, or agricultural preservation restriction on the subdivision property. The planning or zoning board is then required to notify these holders of conservation, preservation or agricultural preservation restrictions of the application for subdivision. Easements (a.k.a. conservation, preservation or agricultural preservation restrictions) are established by property owners who feel that their land would be better off with little or no development. One of the most common types of easements is one that prohibits subdivision of the property. However, because property may be bought and sold numerous times, knowledge that an easement exists may be lost over time. Because conservation commissions commonly maintain easements, to properly ensure that the intent of the easement is maintained, conservation commissions and other holders of easements should be notified of any potential subdivision. The cost of distributing the notice to the easement holders will be paid by the applicant. No one testified in opposition to the bill at the hearing. The committee realizes that this bill only scratches the surface of a much larger issue and those deed restrictions and easements for things other than subdivisions are not covered under this bill. However, though at some point there may be a vehicle through which we centralize and perhaps more efficiently monitor deed restrictions and all types of easements, the majority of the committee decided that HB 210 was not the vehicle to accomplish that task. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 226, relative to the composition of the aviation users advisory board. Executive Departments and Administration Committee. Vote: 7-0. Ought to pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: House Bill 226 requires the commissioner of transportation to serve on the Aviation Users Advisory Board and authorizes the commissioner to appoint a designee. Currently under RSA 21-L:8, II "Only the assistant commissioner shall serve on the Aviation Users Advisory Board." House Bill 226 will alter that provision so that the commissioner or the commissioner's designee serves on the board. No one opposed the bill at the hearing. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 300, establishing a commission to study judicial salaries and retirement benefits. Executive Departments and Administration Committee. Vote: 5-2. Ought to pass with amendment, Senator Roberge for the committee.

1997-1247s
09/08

Amendment to HB 300

Amend the title of the bill by replacing it with the following:
AN ACT establishing a study committee on judicial pensions.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study pensions for state judges.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study alternative pension systems to the current non-contributory pension system for New Hampshire judges and examine the costs and consequences of establishing an alternative pension system for judges in this state.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a study committee on judicial pensions.

SENATOR ROBERGE: House Bill 300 began as a study committee and was amended by the House to become a commission, two members of which were to be appointed by the chief justice of the supreme court. Such membership created questions of conflicts of interest. As a result, the Senate ED & A Committee chose to revert the bill back to a study committee, thus removing judiciary membership. Members of the judiciary currently do not have a retirement fund. Any retirement benefits afforded to members of the judiciary are appropriated out of the general fund each biennium. When the judiciary group was relatively small in number, such a practice was acceptable. However, now that the number of members of the judiciary has increased, the practice is too burdensome on the general fund. House Bill 300 establishes a committee to study alternative pension systems to the current non-contributory pension system for New Hampshire judges and to examine the costs and consequences of establishing an alternative pension system for judges in the state. A majority of the committee agreed that this issue is worthy of study and we ask that you support our motion of ought to pass as amended.

Senator Gordon moved to have **HB 300**, establishing a commission to study judicial salaries and retirement benefits, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 300, establishing a commission to study judicial salaries and retirement benefits.

HB 329, clarifying the applicability of the fireman's rule. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass with amendment, Senator Francoeur for the committee.

1997-1125s

09/02

Amendment to HB 329

Amend RSA 507:8-h, I as inserted by section 1 of the bill by replacing it with the following:

I. Firefighters, emergency medical technicians (E.M.T.'s), police officers and other public safety officers shall have no cause of action for injuries arising from negligent conduct which created the particular occasion for the officer's official engagement. However, this section does not affect such officer's causes of action *for unrelated negligent conduct occurring during the officer's official engagement, or for other negligent conduct, or for reckless, wanton or willful acts of misconduct.*

SENATOR FRANCOEUR: House Bill 329 clarifies the applicability of the fireman's rule that is defined by Black's Law Dictionary as the "Doctrine which holds that professionals, whose occupations by nature exposes them to particular risks, may not hold another negligent for creating the situation to which they respond in their professional capacity." Hence, firefighters cannot hold liable another party, if, for example, when responding to an alarm a firefighter suffers from smoke inhalation. Under HB 329, the officer may hold liable another party for a subsequent and negligent act that took place at the scene of the original accident but which is not related to the original incident. For example, if in the course of responding to a call an individual at the site of the fire throws acid in the face of the firefighter, the firefighter can then hold liable, the individual who threw the acid. The amendment to the bill further clarifies the language of the bill as amended by the House. No one opposed the bill at the hearing. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 340, relative to the real estate commission and its licensing and bonding requirements. Executive Departments and Administration Committee. Vote: 7-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-1264s

05/09

Amendment to HB 340

Amend the bill by replacing all after section 4 with the following:

5 New Section; Notice of Rulemaking Proceedings. Amend RSA 331-A by inserting after section 24 the following new section:

331-A:24-a Notice of Rulemaking Proceedings. Notwithstanding RSA 541-A:6, III, the notice of rulemaking proceedings provided by the commission to persons licensed under this chapter shall be by U.S. mail.

6 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill:

I. Establishes reciprocity for licensure for persons with certain credentials from other jurisdictions and requires that such persons sit only for the New Hampshire portion of the licensure examination.

II. Establishes requirements for licensees seeking inactive status and revises bonding requirements.

Requires the New Hampshire real estate commission to mail notice of rulemaking proceedings to licensees.

SENATOR WHIPPLE: Those who testified regarding HB 340 were comfortable with real estate license reciprocity because many states have established reasonable standards for licensing real estate agents. Most states currently require a two-part licensing exam: one general section with questions regarding general vocabulary, and a second section that is state specific. House Bill 340 requires that an individual from out-of-state seeking a New Hampshire real estate license sit only for the New Hampshire-specific portion of the real estate exam. Reciprocity is beneficial not only for those seeking real estate licensure, but also for individuals relocating outside of New Hampshire who have developed a rapport with a New Hampshire agent. Such individuals can continue to use the services of the New Hampshire agent so long as the state to which the individual is moving acknowledges reciprocity. House Bill 340 also establishes requirements for licensees seeking inactive status. The committee heard testimonies that approximately only one-third of those licensed are actually active in real estate brokerage. Creating an inactive status would allow the state to maintain revenue in the form of the licensing fee. The committee amended the bill by adding a new section referencing notice of rulemaking proceedings. We heard testimony that the current public notice process, an ad in a local newspaper - is not sufficient. The committee voted to require the board to notify each licensee of rulemaking proceedings via U.S. mail. This will remove the likelihood that licensees are faced with surprises at the end of the rulemaking process. No one testified in opposition to HB 340. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senator Danaïs (Rule #42).

HB 378, regulating the practice of acupuncture. Executive Departments and Administration Committee. Vote: 7-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-1246s

05/09

Amendment to HB 378

Amend RSA 328-F:10, I as inserted by section of the bill by replacing it with the following:

I. Under this chapter the scope of practice of acupuncture shall include the allied techniques and modalities of oriental medicine, both traditional and modern. The scope of practice shall include: diagnostic pro-

cedures; electrical and magnetic stimulation; moxibustion and other forms of heat therapy; cupping and scraping techniques; dietary, nutritional, and herbal therapies; lifestyle counseling; accupressure; and massage.

Amend RSA 328-F:10, III as inserted by section 1 of the bill by replacing it with the following:

III. Nothing in this section is intended to limit, interfere with, or prevent any other health care professionals from practicing within their defined scopes of practice, including professionals licensed under RSA 316-A using limited adjunctive procedures.

SENATOR WHIPPLE: House Bill 378 establishes the board of acupuncture which shall be administratively attached to the Department of Health and Human Services and which shall adopt administrative rules to set and collect fees, issue licenses, maintain a register of licensed acupuncturists and approved acupuncture schools, establish professional standards, and conduct disciplinary actions. House Bill 378 requires those persons wishing to engage in the practice of acupuncture to obtain a license from the board. Currently residents of the state of New Hampshire currently seeking acupuncturists, often times those in need of acupuncture treatment, are in great pain and should not be expected to travel long distances for treatment. Acupuncture is a medical treatment. As such, those who perform acupuncture should be held to a professional standard and should be licensed. As amended, HB 378 will not limit or interfere with physicians, chiropractors, doctors of naturopathy, or any other health care professionals practicing within their defined scopes of practice. The use of alternative and complementary medicine is increasing. According to Oxford Health Plans, one-third of their members use some form of alternative medicine. Oxford is working to construct an Alternative Medicine Rider in New Hampshire; however, only those acupuncturists who are licensed would be included under Oxford arrangements. Licensing acupuncturists will bring credit to the profession and will help to protect the public. The committee recommends that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 447, eliminating the grandfather clause for licensure of professional engineers. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-1302s

05/01

Amendment to HB 447

Amend the title of the bill by replacing it with the following:

AN ACT eliminating the grandfather clause for licensure of professional engineers, relative to the board of professional engineers, and relative to certain requirements for the practice of architecture.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Notice of Rulemaking Proceedings. Amend RSA 310-A by inserting after section 5 the following new section:

310-A:5-a Notice of Rulemaking Proceedings. Notwithstanding RSA 541-A:6, III, the notice of rulemaking proceedings provided by the board to persons licensed under this chapter shall be by U.S. Mail.

2 Requirement to Pass Examination. Amend RSA 310-A:12, III-IV to read as follows:

III. Applicants with a minimum of 25 years of engineering experience of which at least 10 years shall have been in responsible charge of engineering work satisfactory to the board may apply for licensure under this section on the basis of education and experience, ***provided that they have successfully passed the professional engineers examination required by RSA 310-A:17.***

IV. Whenever the evidence presented in an application under paragraph I, II, or III does not appear to the board conclusive and warranting the issuance of a license, the applicant [~~may~~] ***shall*** be required to pass an oral or written examination, or both, as the board may determine.

3 Architects; Examination Requirements, Certificates, and Interstate Licensure Requirements. Amend RSA 310-A:43 to read as follows:

310-A:43 Examinations. [~~Written technical~~] Examinations in architecture shall be held [~~at least annually~~] at such times and places as the board shall determine. [~~If examinations are required on fundamental subjects,~~] The applicant shall be permitted to take [~~this part of~~] the examination upon [~~completion of the requisite years of professional experience. The board may issue to each applicant, upon successfully passing the examination in fundamental subjects, a certificate stating that the applicant has passed the examination.~~] ***fulfilling the requirements established by the board.*** The board shall prescribe the methods of procedure and the scope of the [~~technical and professional~~] examination [~~and the methods of procedure shall be prescribed by the board~~] ***which shall include the following subjects: pre-design, general structures, lateral forces, mechanical and electrical systems, materials and methods, construction documents and services, site planning, building planning, and building technology.*** [~~A candidate failing an examination may apply for reexamination upon payment of an additional fee determined by the board and shall be re-examined on the next regularly scheduled examination date. A candidate failing the examination 3 consecutive times shall be required to furnish evidence of additional experience, study, or education credits acceptable to the board before being allowed to proceed with the examination.~~].

4 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill requires the board of professional engineers to provide notice of rulemaking proceedings to licensees by U.S. Mail.

This bill modifies the law which allows certain persons with engineering experience to apply for licensure on the basis of partial education and experience by adding the condition that such persons pass the professional engineers examination.

This bill also modifies examination requirements and certification and interstate licensure requirements for the practice of architecture.

This bill increases the fee charged per square foot for major and minor projects relative to excavating and dredging wetlands and allows the increased funds to be used to hire staff.

SENATOR WHIPPLE: House Bill 447 modifies the law which allows certain persons with engineering experience to apply for licensure on the basis of partial education and experience by adding the condition that such persons pass the professional engineers examination. House Bill

447 also makes applicants, who do not readily qualify for licensure as professional engineers under RSA 310-A:12, I, II and III, subject to mandatory passage of a written or oral examination or both. House Bill 447 is a housekeeping measure to clear up confusion surrounding the grandfather clause for professional engineer licensure under RSA 310-A:12 that was enacted in 1945. New Hampshire, one of 13 states with a grandfather clause, is currently the only state that does not include a mandatory proficiency examination in that clause. As such, individuals seeking a professional engineering license will come to New Hampshire to obtain a license simply because of the lack of the proficiency examination requirement. The ED & A Committee attached two amendments to the bill. The first amendment modifies examination requirements and certification and interstate licensure requirements for architects. The second amendment includes a requirement that the board notify each licensee of rulemaking proceedings via U.S. mail. This will remove the likelihood that licensees are faced with surprises at the end of the rulemaking process. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 469, relative to the rules of the board of dental examiners. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-1303s

05/01

Amendment to HB 469

Amend the bill by replacing all after section 3 with the following:

4 New Paragraph; Procedures Assigned to Non-Dentists. Amend RSA 317-A:12 by inserting after paragraph XII-a the following new paragraph:

XII-b. Procedures which may be assigned by a licensed dentist to dental hygienists, dental assistants, and to persons not licensed to practice dentistry; and

5 Board Investigation Authority; Requirements for Professional Liability Insurers Added. Amend RSA 317-A:17, V to read as follows:

V.(a) Every insurer, including self-insurers, providing professional liability insurance to a licensee of the board shall send a complete report to the board as to all reservable claims and suits coincident with the initiation of an action for dental injury within 30 days after the initiation of the action. For the purpose of this paragraph, dental injury means any adverse, untoward, or undesired consequences arising out of or sustained in the course of professional services rendered by a dental care provider, whether resulting from negligence, error, or omission in the performance of such services; from rendition of such services without informed consent or in breach of warranty or in violation of contract; from failure to diagnose; from premature abandonment of a patient or of a course of treatment; from failure properly to maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services.

(b) The board shall conduct an investigation of any person licensed by the board who has been the subject of 3 insurance claims or legal

judgments for medical injury as defined in RSA 329:17, III, which pertain to 3 different events within any consecutive 5-year period commencing with January 1, 1988.

6 Permit for General Anesthesia, Deep Sedation, or Conscious Sedation. Amend RSA 317-A:20, II to read as follows:

II. Any dentist who wishes to administer general anesthesia, deep sedation, ~~and~~ **or** conscious sedation shall apply to the board for ~~a~~ **the appropriate** permit and pay an application fee set by the board in accordance with RSA 317-A:12, XII-a.

7 Technical Correction. Amend RSA 317-A:20, IV to read as follows:

IV. Such things as the board shall determine to be "dental hygiene" under ~~sections~~ RSA 317-A:12 or RSA 317-A:21 shall not be deemed to be the practice of dentistry within the meaning of this section.

8 Reference to Dental Hygienists. Amend RSA 317-A:21, II to read as follows:

II. Applications for licensure **as a dental hygienist** shall be made to the board in writing and shall be accompanied by a fee established by the board and by satisfactory proof that the applicant is a graduate of a school of dental hygiene with a minimum of a 2-year program in an institution of higher education, the program of which is accredited by a national accrediting agency recognized by the United States Department of Education and the American Dental Association Commission of Dental Accreditation.

9 Practice of Dental Hygiene. RSA 317-A:21-c is repealed and reenacted to read as follows:

317-A:21-c Practice of Dental Hygiene.

I. A person shall be regarded as practicing dental hygiene within the meaning of this chapter, who performs any of the actions listed in RSA 317-A:21-c, II, or who uses the title "registered dental hygienist", the abbreviation "R.D.H.", or any other words or symbols that indicate that the person is a licensed dental hygienist.

II. Dental hygiene services shall include:

(a) The assessment of medical and dental histories, including preliminary inspection of the oral cavity, surrounding structures, and periodontal charting.

(b) The assessment of the patient to collect and evaluate complete data to identify dental hygiene care needs.

(c) The performance of the complete prophylaxis including the removal of calciferous deposits, excess cements, excess bond materials from orthodontic appliances, accretions, and stains from the supragingival and subgingival surfaces of the teeth by scaling, root planning, and polishing.

(d) The performance of procedures requiring additional education and any other procedures authorized by the board through rules adopted under RSA 541-A.

III. Dental hygiene services shall be provided under the supervision of a licensed dentist in accordance with rules adopted by the board.

10 Only Licensed Persons May Practice. Amend RSA 317-A:28 to read as follows:

317-A:28 ~~[Assistants; Qualifications]~~ **Unlicensed Persons Prohibited.** ~~[No]~~ **A manager, proprietor, partnership, association, or corporation owning, [operating] managing, or controlling any place where dental work is done, provided or contracted for shall employ, keep, or retain [any unlicensed person or dentist as an operator] only licensed dentists to practice dentistry and licensed dental hygienists to practice dental hygiene.**

11 List of Dentists and Assistants. Amend RSA 317-A:29 to read as follows:

317-A:29 List of ~~Assistants~~ **Dentists and Dental Hygienists**. Any manager, proprietor, partnership, association, or corporation specified in RSA 317-A:28 shall, within 10 days after demand made by the secretary-treasurer of the board by registered mail, furnish to the secretary-treasurer the names and addresses of all persons practicing ~~or assisting in the practice of~~ dentistry **or dental hygiene** in ~~his~~ **their** or its place of business or under ~~his~~ **their** or its control, together with a sworn statement showing by what license or authority said persons are practicing.

12 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill:

I. Expands the scope of activity allowed under temporary licenses to include voluntary dental or dental hygiene services.

II. Requires all insurers providing professional liability insurance to dental licensees to send a report to the board as to all reservable claims and suits coincident with the initiation of an action for dental injury within 30 days after the initiation of the action. The bill defines dental injury.

III. Requires all persons who act as dental hygienists to be licensed.

IV. Modifies the rulemaking authority of the board of dental examiners.

Modifies that which constitutes the practice of dental hygiene.

SENATOR PATENAUDE: House Bill 469 expands the scope of activity allowed under temporary licenses to include voluntary dental hygiene services, requires all insurers providing professional liability insurance to dental licensees to send a report to the board as to all reservable claims and suits coincident with the initiation of an action for dental injury within 30 days after the initiation of the action, defines dental injury, requires all persons who act as dental hygienists to be licensed, modifies the rulemaking authority of the Board of Dental Examiners, and modifies what constitutes the practice of dental hygiene. The Senate ED & A Committee made two changes to the bill as amended by the House by 1) giving rulemaking authority to the board of dental examiners and 2) reinstating current statute regarding qualification of complete prophylaxis. House Bill 469 includes complete prophylaxis within the duties to be performed solely by dental hygienists, who are licensed by the state. Currently the profession of dental hygienists is threatened by dental assistants who are performing partial prophylaxis. Without specific qualification of complete prophylaxis as dental hygienists' responsibility, there is potential for unlicensed assistants to perform the task. Listing complete prophylaxis as a responsibility specific to dental hygienists will insure that the public is properly cared for by licensed professionals. The committee recommends unanimously, that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 528-L, relative to municipal water, gas and electric utilities. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-1249s**03/09****Amendment to HB 528-LOCAL**

Amend RSA 38:17 as inserted by section 1 of the bill by replacing it with the following:

38:17 Supply Contracts. Any such municipality may contract to supply electricity, gas, or water to individuals, corporations, other municipalities, or any person for any of the purposes named or contemplated in this chapter, and make such contracts, and establish such regulations and such reasonable rates for the use thereof, as may from time to time be authorized by the commission.

Amend the bill by inserting after section 9 the following and renumbering the original section 10 to read as 11:

10 Applicability. The provisions of this act shall not apply to any proceeding pending under the former RSA 38.

SENATOR WHIPPLE: House Bill 528-L repeals and revises RSA 38, relative to municipal lighting and water systems, to apply to the establishment and operation of municipal electric, gas or water systems. House Bill 528 allows towns and cities to municipalize utility services if town voters or city governing bodies confirm via a two-thirds majority vote that the municipalization is in the best interest of the public. Under RSA 38:11 as listed in the bill, the Public Utilities Commission may set conditions and issue orders to satisfy the public interest. Should municipalities decide to take over an existing power plant or construct a new plant, "The municipal electric utility shall make payments in lieu of property taxes in the amount that the plant and equipment would have paid taxes if they had been owned by a private owner." Also, the bill prohibits towns and cities from subsidizing via taxes the purchase of utility property. House Bill 528 simplifies, clarifies, and strengthens the existing opportunity for municipalities to become utilities, particularly if the deregulation process should falter or become weighted in litigation. This bill will enable towns and cities to negotiate for reasonable rates and dependable service from their current energy providers. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 632-L, abolishing the water well board and transferring its authority to the department of environmental services. Executive Departments and Administration Committee. Vote: 4-3. Rereferred to committee, Senator Whipple for the committee.

Senator Whipple moved to have **HB 632-L**, abolishing the water well board and transferring its authority to the department of environmental services, laid on the table.

Adopted.

LAID ON THE TABLE

HB 632-L, abolishing the water well board and transferring its authority to the department of environmental services.

HB 653-L, relative to address numbers on streets and highways and relative to penalties for violations of certain planning and zoning laws. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: House Bill 653-L allows for the administrative renumbering of property in certain situations and encourages notification of the renumbering to the enhanced 911 system. Many older cities and towns in New Hampshire have large subdivided lots that hinder consecutive renumbering. This bill will allow parties who agree to change to consecutive street numbering to do so without a full public hearing. Should a party be in dissent, then the public hearing process can be pursued. Parties who change to consecutive street numbering are encouraged to contact the Bureau of Emergency Communication. House Bill 653-L also increases from five hundred dollars to one thousand dollars the penalty for transferring lots in unapproved subdivisions, and increases from one hundred dollars to two hundred and seventy-five dollars the daily civil penalty to be assessed to those persons who violate planning or zoning provisions. The current penalties are not enough to deter individuals and, in particular, large businesses. No one opposed the bill. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 582-FN, relative to medicaid rate setting. Insurance Committee. Vote: 5-2. Ought to pass, Senator Fraser for the committee

SENATOR FRASER: Mr. President, HB 582 is an outgrowth of a committee I served on all last summer and well into the fall. It was chaired by Representative Amidon. As a result of the bill and of those meetings that were held, and there were many, HB 582 was created. What the bill does is to require the commissioner of Health and Human Services to establish a Medicaid rate setting methodology for home health services, which better reflects the average costs to deliver home care provider services and to report annually regarding this. The home care providers haven't had a rate increase since 1989 and the reimbursement rate is well below what it should be. Increasing the reimbursement rate will help to ensure those home care providers, and home care continues to be utilized, which is far less expensive than having people in nursing homes. The Senate Insurance Committee recommends ought to pass. I think, Mr. President, that it would go to Senate Finance.

SENATOR HOLLINGWORTH: Senator Fraser, at the hearing on HB 582, isn't it true that the providers clearly stated that they were very pleased with the governor's proposal for the budget for this year, the increases that she had put in, and that they were pleased by that action that was taken by the governor?

SENATOR FRASER: That is quite correct, Senator. Thank you.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 183, relative to the state representative districts of towns. Internal Affairs Committee. Vote: 4-0. Inexpedient to legislate, Senator Barnes for the committee.

Senator J. King moved to have **HB 183**, relative to the state representative districts of towns, laid on the table.

Adopted.

LAID ON THE TABLE

HB 183, relative to the state representative districts of towns.

HB 495, prohibiting registered lobbyists from serving on the legislative ethics committee. Internal Affairs Committee. Vote: 5-0. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: This bill prohibits the registered lobbyists from serving on the Legislative Ethics Committee and it probably makes some sense from the public's perspective, too. We urge its passage.

Adopted.

Ordered to third reading.

HB 622-FN, relative to legislative approval of settlements of court claims against the state. Internal Affairs Committee. Vote: 4-0. Ought to pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill requires legislative approval of certain out-of-court settlements against the state. The requirement is to help ensure that the state doesn't find itself paying out huge settlements without any legislative oversight. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 693, establishing a house committee to examine water quality issues. Internal Affairs Committee. Vote: 5-0. Ought to pass with amendment, Senator Russman for the committee.

1997-1311s

03/08

Amendment to HB 693

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to examine water quality issues.

Amend the bill by replacing sections 2-3 with the following:

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three house members, appointed by the speaker of the house, from the resources, recreation and development committee. The speaker of the house may appoint two other members, if deemed necessary, as alternates.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee's duties shall include, but not be limited to:

I. Examining the feasibility of establishing a centralized data depository for water related information.

II. Exploring the development of incentive programs for businesses to encourage the reduction of toxins.

III. Examining the impact of water quality on growth and economic development.

IV. Investigating the feasibility of a watershed grant program to fund local watershed planning and protection projects, drawing on the technical support of the department of environmental services and the state conservation committee.

Amend the bill by replacing section 5 with the following:

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 1998.

AMENDED ANALYSIS

This bill establishes a committee to study water quality issues.

The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 1998.

This bill is a result of the house resources, recreation and development study committee established in HB 1444 of the 1996 session.

SENATOR RUSSMAN: This bill started as a House study committee and we made an amendment to it that would allow the Senate to serve on it as well. It also adds the funding of watershed planning protection projects be added to the list of duties that the committee would study. We urge passage of the bill as amended.

Amendment adopted.

Ordered to third reading.

HB 787-FN, requiring the executive council to hold public hearings on judicial appointments. Internal Affairs Committee. Vote: 5-1. Ought to pass, Senator Gordon for the committee.

SENATOR GORDON: This bill requires the executive council to hold public hearings on judicial appointments. The public should be ensured an opportunity to comment on judicial nominations that this bill accomplishes. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HCR 9, urging the governor and general court to take action to bring about property tax relief. Internal Affairs Committee. Vote: 4-1. Inexpedient to legislate, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this resolution calls on the governor and the general court to give taxpayers property tax relief. In and of itself, the committee, the majority of the committee didn't feel that the bill did anything. I think the sentiment in the committee, was that this is what we are supposed to be doing in the first place; as I indicated, the majority of the committee voted that this bill should be reported out as inexpedient to legislate.

SUBSTITUTE MOTION

Senator K. Wheeler moved to substitute ought to pass for inexpedient to legislate.

SENATOR K. WHEELER: We all know that resolutions don't have the force of law, but they do give us the opportunity to make important policy statements. I am certain that every member of this Senate is in favor of property tax relief for the cities and towns that we represent. That is what this resolution would do. It would put the Senate on record as saying that we do indeed believe in property tax relief. We know that the governor's budget already includes property tax relief. We would hope that every governor's budget would include property tax relief. By supporting this substitute motion of ought to pass, we are saying that we believe that all budgets, whether coming from the governor or the legislature, should provide property tax relief. I hope that you will join me in sending this positive message to our constituents.

SENATOR BLAISDELL: TAPE INAUDIBLE. We have sent that message 13 times. I am sorry, it would be 14 if we pass this one. How much more do we have to send to them?

SENATOR K. WHEELER: I believe that, Senator Blaisdell. I say that we are fortunate that our governor, this time, has in her budget, property tax relief, and this is commending her for that and saying that we support property tax relief. We would urge the Finance Committee to continue to support property tax relief.

SENATOR BLAISDELL: I have a bridge in Winchester that I want to sell you.

SENATOR FRASER: Senator Wheeler, would you believe, that just yesterday, there was a press conference in the LOB, and my recollection was that it was all republicans. Part of that program was offered by Senator Rubens. It had to do with adding ten million dollars to the Augenblick Formula for the towns and cities to do as they wish. I don't think that we need a resolution, when we are already doing... would you believe, that we are already doing this anyway?

SENATOR K. WHEELER: I would believe that you had a press conference, but as far as the financing of the Augenblick Formula or any other proposal that was brought about in the press conference, I believe with the executive assessment of that, that it's voodoo kindergarten.

SENATOR GORDON: Senator Wheeler, in the resolution itself, it indicates that as a result of the property tax system, that the individuals suffering the most are the children of the state. Would you believe, that I believe, that in fact it is the elderly in the state that are suffering the most as a result of the property tax system?

SENATOR K. WHEELER: I would agree with you that the elderly suffer unduly with our property tax system. I believe that all of our people suffer unduly under our current property tax system and that this resolution would say that we support property tax relief instead of class warfare for all of our citizens.

Senator Barnes moved the question.

Adopted.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator Whipple.

Seconded by Senator McCarley.

The following Senators voted Yes: McCarley, Whipple, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, Blaisdell, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danais, Delahunty.

Yeas: 8 - Nays: 16

Substitute motion of ought to pass failed.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

CACR 1, Relating to a 4-year term for the office of governor. Providing that the governor shall be elected every 4 years beginning in the year 2002. Internal Affairs Committee. Vote: 4-2. Inexpedient to legislate, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, I just lost a few friends on the previous vote and I guess I am going to lose Senator Johnson on this one. CACR 1... did you get that, Senator Johnson, I thought that we would get a little humor in this place today? Just a little that's all. A four-year term for the governor would upset, I believe, and the majority of the committee believes, the balance of power between the executive committee and the legislature. Two-year terms maximize the participation of the voters in the process of governing and we felt that very strongly. Some states do have a four-year term for governor, but they also have four-year terms for state senators or term limits for the office of governor to balance the power, both of which New Hampshire doesn't have. The majority of the committee recommends the bill as inexpedient to legislate.

SENATOR HOLLINGWORTH: How many states have just a two-year term for governor?

SENATOR BLAISDELL: I really don't that. I am sorry.

SENATOR HOLLINGWORTH: Would you believe two?

SENATOR BLAISDELL: Thank you very much, I appreciate that information.

SENATOR RUBENS: Briefly, I had better set my watch to noon here. I would support this bill if all of the offices for the House and the state Senate and the governor were set to four years. Thank you.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Whipple.

Seconded by Senator McCarley.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, Blaisdell, D. Wheeler, Squires, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

The following Senators voted No: McCarley, Whipple, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 16 - Nays: 8

Committee report of inexpedient to legislate is adopted.

CACR 10, Relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute. Internal Affairs Committee. Vote: 5-2. Inexpedient to legislate, Senator Barnes for the committee.

SENATOR BARNES: Constitutional Amendment Concurrent Resolution 10 proposes to all of the governmental relationships between the state and its cities and towns in a drastic and fundamental way. The current system of government, in this state, has been in place for over two hundred years and has worked very well. The constitution in New Hampshire invests all legislative power over the lives of our citizens in the House of Representatives and the Senate. The cities and towns are created by the legislature and have only those powers specifically delegated to them. The founders of this great state understood that plenary powers over our citizens should only be exercised at one level of government. This bill would essentially change over two hundred years of governmental administration in the state of New Hampshire by granting to cities and towns, the equal right to pass whatever laws that they deem pru-

dent unless such laws are specifically prohibited by the constitution or statute. This would create two separate layers of government having plenary powers over the lives of our citizens. Presently, cities and towns have broad powers delegated to them by the legislature. Considerable delegated powers to these cities and towns can be found in RSA 47:17 & 31:39, respectively. The needs of the local governments have been sufficiently met by these delegated powers. If the feeling is that these may not be adequate to meet the changing needs of modern society, then let us simply amend these statutes to add further specially delegated powers. The problem with this amendment to the constitution, is that it is going overboard to accomplish the purpose to give the cities and towns more flexibility to deal with the twenty-first century. Under the constitutional amendment, neighboring cities and towns could pass contradictory ordinances on the same subject. We could end up with a crazy patchwork of regulations in the same geographic area. For example, neighboring cities and towns could pass different regulations concerning seat belts and motorcycle helmets, rent control, hunting, fishing, pesticides and other controversial issues that should be uniformly applied throughout the state. This is not conducive to good government. Creating bigger bureaucracy in our cities and towns will require increased costs such as additional personnel. In order to pay for these costs, cities and towns could institute local sales or income taxes or other levies since they are not specifically prohibited by current state law. We are still grappling with the current issue concerning the taxing of telephone poles. This would be moved under the amendment because cities and towns would automatically have the power to pass an ordinance to tax any form of property however it wanted as long as it met the requirements of other provisions of the constitution. Let me just say, even though this is a constitutional amendment and has to be voted upon by the people. You have the obligation to exercise your independent judgment beforehand to decide whether this proposal should become part of our constitution. This bill will not produce good government for our citizens. I suggest you carefully consider the many unforeseen implications of this legislation before you vote today. The majority of the Internal Affairs Committee has recommended that this bill is inexpedient to legislate and we would appreciate your support. Thank you.

SUBSTITUTE MOTION

Senator J. King moved to substitute rerefer for inexpedient to legislate.

SENATOR J. KING: I rise in support of rereferral knowing that there are problems with the bill as it is printed, but there is some good in the bill. We could then take a good look at it to see if there is a better way of doing it. We have been working piecemeal to see what we can send back to the locals. I strongly believe that this is as local as we can get, but let's study it and make sure that we know what we are doing and see if we can come up with a better way. If we can't, I will be the first one to come back next year and go along with inexpedient.

SENATOR WHIPPLE: Senator King, would you believe that I agree with you that we should send this back to committee for further work and also for further education? Obviously, not everyone has read the bill or studied it for that matter. In the bill, anything that is in the constitution today or in RSA today can be changed. Obviously we all don't know that. Also, we need to get more education for the people so that the people can lobby their legislators and senators and they don't have to do it in the

House, obviously, because they sent it over here nearly unanimously... for them to lobby their senators so that everyone here is aware of exactly what is in this bill. I think that there is some confusion about the bill. I think that we need to send it to study. There probably are some problems with it also that need to be changed. I am not aware of them. Undoubtedly if you have read it well enough, maybe you recognize what those are and I haven't. Thank you.

SENATOR J. KING: I believe the same with the exception that this is an important bill, especially to the locals and we are going to make sure that we give it our best to make sure that we do the right thing. Again, I request that it be rereferred.

SENATOR GORDON: I am going to vote against the rereferral because I think that I have read the bill. The bill itself, as I think Senator Barnes indicated in his brief remarks, brings about a shift in power. It brings about a shift in power from the state legislature, from us, to the municipal governments. I was at the hearing and I heard the testimony on the bill. There were people who spoke in favor and there were people who spoke against. Quite clearly, the local officials would like to have more legislative powers. That is in essence, the issue. But what I think that I heard in the testimony was a failure on the part of the proponents of the bill to identify a problem in the current system of government that needs to be fixed. Contrary, I think, to the representations that were made by the proponents, I don't believe that this legislation will result in more efficient government. Instead, I think, that it will cause more confusion for the citizens of the state. I think that it will create competition between the state and our local governments. More importantly, I think that the legislature will actually see an increase or an escalation in the amount of legislation it has to deal with because we now will be faced with legislation attempting to restrict the powers that are being exercised by the local communities. I asked the question, I think, can the people of New Hampshire be well served by creating two hundred and thirty-six sovereign states, sovereign entities? I don't think so. I think, like many of you, I ran for this senate as a proponent of individual rights and an advocate of less government. I think that what I have concluded after seeing this bill, and after considering it, it is a difficult vote to take because I would ordinarily want to support my municipalities. But what I have seen is that a vote for CACR 10 is actually a vote for more government. I would urge a negative vote on the motion to rerefer and that we dispense with the bill.

SENATOR BARNES: Senator Gordon, would you believe that you put it beautifully and that I am going to go along with you and vote no?

SENATOR GORDON: I believe that.

SENATOR HOLLINGWORTH: Senator Gordon, isn't it true that this would have to go back to the voters in each of the towns and they could make the determination after being informed as to what this would entail and to make the decision based on their will? Aren't we supposed to be voting for our constituents and what they believe to be the right thing for us to do in New Hampshire?

SENATOR GORDON: If you are asking whether or not the CACR would create a question that would go out to the people of New Hampshire? It wouldn't go to each of the towns, it would go out to all of the voters in New Hampshire to vote on. I can tell you from my experience on CACRs that much depends on how the question is framed as to what the re-

sponse will be. I would be very concerned in that regard, because if somebody presented me with a question that simply said, "Would you agree with local control or would you agree with home rule" I probably would vote for that if I didn't understand all of the implications.

SENATOR HOLLINGWORTH: Senator Gordon, isn't it true that last week this Senate had the opportunity to vote on a bill exactly that, to make sure that the question in CACR would be exactly as it was as put to the people, and that it would appear the same? This Senate, many of you, voted against that?

SENATOR GORDON: I can't speak for the way that other people vote. I can tell you that I voted in favor of that. I can tell you that brings into question, the issue of how questions are asked when they are placed to the people.

SENATOR J. KING: Senator Gordon, your reasons for not going to rereferral are not strengthened by your speech, which was a good one by the way, because there is a little bit of doubt probably, in your mind. There is a lot in mine; there is some from that one and there is a little from that one. Give me the reasons why if we rerefer it and get more information for the people that they want, it is not going to go into effect, it is going to be rereferred to hear it again and to see if it is a worthwhile thing to do. What would you say?

SENATOR GORDON: I think that the answer is that I have reviewed the bill based upon its substantive content and that is what it intends to do. I don't think that rereferring it and trying to polish the edges of the substance, is going to make it any more palatable to me.

SENATOR SQUIRES: Senator Barnes, I first have a brief comment and then a question. I think what this bill reflects is the difference between the cities and the towns in New Hampshire. It is true that there are two hundred and thirty-six towns, but the fact of the matter is, that 25 to 35 percent of the population lives in two to three communities, and those communities, one of which is mine. Nashua is having a tough time with issues like moving one street for a district, has to come to the legislature. Therefore, I am in favor of the rereferral. My question for Senator Barnes is, I think that he said, "That passage of this bill would create a crazy patchwork." I guess my question is, Senator Barnes, are today's statutes the same patchwork?

SENATOR BARNES: To answer your question, Senator Squires, there might be some samples of that, but passage of this or rereferral of it to prolong it, would, in my opinion, create a tremendous patchwork. You may need a law book to travel to Concord to Colebrook because there may be 15 different laws on the way up. Maybe you can wear your seat belt in one place, and maybe you can smoke in your car somewhere else. You might have a real problem.

SENATOR SQUIRES: Thank you.

SENATOR RUBENS: I took a bit of time to visit with as many of the boards of selectmen in towns that I represent as possible. I recognize that there are differences between some of the towns that I represent. Some of them tend to be smaller than perhaps, Nashua. I asked them, specifically, at length, to comment on this bill. I asked them what problems that they had with the state and they scratched their heads and said that they think that they favor that bill. I asked them what problems that they had with the state, what were the things? Were the laws too restric-

tive? None of them had any problems with our system of laws. When I asked them about the different procedures that might be available to enact or to transact different types of business that may vary from town to town, they all thought about it for a moment and were no longer particularly supportive of this bill. Thank you very much. I will agree with Senator Gordon's recommendation that we vote no on the motion.

SENATOR LARSEN: A number of us here have come from local positions. This, in my mind, is an issue of local control. We always give lip service to local control. This is a local control bill. I am still on city council. Some of us are still doing local issues as well as state issues and see on a day to day basis, the difficulties that occur when in order to effectuate a change, you have to go to a four hundred and twenty-four bodied legislature and explain a very unique local circumstance. Senator Gordon said that he didn't know where the problem is. I can give a small example of the problem. Not long ago Concord was told by our local building inspector that we had numerous building code violations around the city. We have an ordinance prohibiting those building code violations, but we have no enforcement tool. We had to come back to the legislature, which as we all know, takes a long process to make a change in order to deal with a building code violation across the city, we had to wait for the right legislative cycle, come to the four hundred and twenty-four legislative body that we are, and convince every one of the need for building code violators be accessed a fine for not meeting city standards. In the meantime, that building code violator gets away with it for the number of years that it takes to convince this body of the need for the change. That is a very small example. I didn't sit on the committee, there may be some minor problems with this, but the issue is right, which is, local control is best done locally. We trust our local people, they are reachable. It should only be when they go too far that the legislature restricts them. They shouldn't have to ask for every step of the way for permission from this body. That is where I am supportive of rereferral. Thank you.

SENATOR MCCARLEY: Very briefly since I think that everyone now feels that we have had a full discussion on this. I guess that I would speak from having been here since January and sitting on the Public Affairs Committee and also being an elected official locally. I would have to respectfully disagree with Senator Rubens. While he may have polled people in his towns that have not been here, I have sat on the Public Affairs Committee and have heard over and over again, people from towns confronted with the very issue that they could not control something locally and had to come to us to do it. I feel that we often say to one another, that nobody listens when we stand up on this floor to speak, that may be true because I feel that I have spoken quite eloquently, three or four times to this very issue and not managed to sway a vote doing that; however, I think that at this time, the rereferral would simply give us a little more time to look at some of the quirks, if indeed, it is truly going to be damaging to the balance of power and the constitution of this state, that determination can be made over the next year and it can come back out as an inexpedient. I would urge the rereferral vote.

A roll call was requested by Senator Cohen.

Seconded by Senator Larsen.

The following Senators voted Yes: McCarley, Whipple, Roberge, Squires, Pignatelli, Larsen, J. King, Danais, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Blaisdell, D. Wheeler, Francoeur, Podles, Barnes, Russman, Delahunty.

Yeas: 11 - Nays: 13

The substitute motion to rerefer failed.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 391, making the office of emergency management the administrator of the grant program for the civil air patrol in New Hampshire. Transportation Committee. Vote: 4-0. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: The Civil Air Patrol is the official auxiliary arm of the United States Air Force, and in New Hampshire, it has traditionally been administrated as a branch of the Division of Aeronautics; however, their primary missions of search and rescue and emergency response have aligned them more appropriately with the office of emergency management in recent years. House Bill 391 is a logical step in that it changes the statutory reference for the administration of the civil air patrol to make them responsible to the offices of emergency management rather than the division of aeronautics. All parties are in agreement on this piece of legislation. The Transportation Committee recommends HB 391 as ought to pass.

Adopted.

Ordered to third reading.

HB 445, extending the reporting date of the paperless title system study committee. Transportation Committee. Vote: 5-0. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: This bill provides a two-year extension of the paperless title study committee because the members wish to monitor the pilot program that presently is underway in five other states and to see if they can come up with a better plan so that they could learn the most efficient means of implementation from these other experiences.

Adopted.

Ordered to third reading.

HB 473, relative to the use of watercraft and boats on the waters of Chocorua Lake in the town of Tamworth. Transportation Committee. Vote: 4-0. Ought to pass with amendment, Senator Pignatelli for the committee.

1997-1298s

03/09

Amendment to HB 473

Amend the bill by replacing section 1 with the following:

1 Chocorua Lake. Amend RSA 270:83 to read as follows:

270:83 Chocorua Lake. No person shall use ~~[or]~~, operate, *or have aboard or attached to* any ~~[motorboat]~~ *boat as defined in RSA 270:48, II* ~~[equipped with an]~~ *a petroleum- or electric-powered in-board or outboard motor, or any other type of power motor*, upon the waters of Chocorua Lake in Tamworth. Whoever violates the provisions of this section shall be guilty of a violation.

AMENDED ANALYSIS

This bill prohibits power motors on the waters of Chocorua Lake in the town of Tamworth.

SENATOR PIGNATELLI: This bill is another reason why we should have passed the home rule bill. House Bill 473 as amended by the Senate Transportation Committee, changes the definition to "motor boat" to include "personal watercraft and prohibits their use on Chocorua Lake in Tamworth." The original version of HB 473 would have permitted the use of electric-powered motors on Chocorua Lake, but this met with tremendous opposition in committee from Tamworth residents. During the deliberations however, it became apparent that the present definition of "motorboat," does not sufficiently protect this lake from personal watercraft use, and so an amendment was drafted to address these concerns. If the committee amendment is adopted, all motorized boats and watercraft will be prohibited from disturbing the pristine beauty of Lake Chocorua. With the exception of the term limits bill 490, which we had in probably my first term in the Senate, I have heard from about as many people who live on Lake Chocorua and have implored us as the legislature to protect the pristine quality of this lake by not allowing motorized watercraft on it. So the Transportation Committee unanimously recommends HB 473 as ought to pass as amended. By the way, some of those letters came from as far away as Switzerland and California and were beautifully written about the quality of Lake Chocorua and how we need to maintain that quality. Thank you very much, Mr. President.

SENATOR F. KING: Senator Pignatelli, is Lake Chocorua considered a great water body, under the ten acre rule?

SENATOR PIGNATELLI: It is more than ten acres.

SENATOR F. KING: Is it therefore not subject to the rules of the state and all citizens of the state have access to that lake?

SENATOR PIGNATELLI: It is a public water body.

SENATOR F. KING: Then would you believe that I would suggest that this is the reason that we should not have passed the previous bill because it allows the legislature to take care of a problem on a statewide issue for the needs of a local group of people?

SENATOR PIGNATELLI: I believe that you believe that.

Amendment adopted.

Ordered to third reading.

HB 797, requiring emergency vehicles to stop for school buses, and requiring the use of both audible and visual emergency signals, in certain circumstances. Transportation Committee. Vote: 4-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 797 was introduced as the result of a situation in the town of Conway in which a school child was nearly hit by a state trooper after she was discharged from the school bus. Fortunately, the school bus driver was able to advert an accident by alerting the child of a rapidly approaching police car, which according to reports did not have its sirens on at the time. The parents of this child requested that legislation be introduced to protect other school children from encountering a similar or worse situation. House Bill 797 would simply require that all emergency vehicles come to a stop when approaching a school bus that is in the process of picking up or dropping

off students. It also would require the use of both audible or visual emergency signals in this situation. Testimony indicated that this is already the common practice with many of the fire stations throughout the state. The Transportation Committee unanimously recommends passage of HB 797. Thank you.

Adopted.

Ordered to third reading.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 415, establishing a nighttime speed limit for OHRV's traveling on the frozen surface of Back Lake in the town of Pittsburg.

HB 737, establishing a committee to study the New Hampshire retirement system relative to redefining earnable compensation.

HJR 4, urging the United States Congress and the Federal Energy Regulatory Commission to cooperate with state plans to restructure the electric utility industry.

SB 164, establishing a committee to study the establishment of a registry for intellectual property.

Senator Barnes moved adoption.

Adopted.

RECONSIDERATION

Senator Fraser having voted with the prevailing side, moved reconsideration on **HB 792**, prohibiting trusts and other legal devises from being used to shelter wealth for the purposes of Medicaid eligibility, whereby we ordered it to third reading.

SENATOR FRASER: Mr. President, the bill came out of the Banks Committee, unanimously, ought to pass. Thanks to the diligence of Senator Pignatelli, we discovered that this has to do with using trusts to set up a trust in order to make someone eligible for Medicaid. What I didn't realize and I don't think that other members of the committee realized, that the look back provision went back for all time. That was not the intent. I thought that it was between three to five years that they could look back to see if somebody had set up a trust in order to hide funds for the purpose of becoming Medicaid eligible. So what I would like to do, Mr. President, is to be sure that we are sending the House a good bill, I would like to take another look at it.

Adopted.

Senator Fraser moved to have **HB 792**, prohibiting trusts and other legal devises from being used to shelter wealth for the purposes of Medicaid eligibility, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 792, prohibiting trusts and other legal devises from being used to shelter wealth for the purposes of Medicaid eligibility.

TAKEN OFF THE TABLE

Senator Patenaude moved to have **HB 586**, changing the expiration date of OHRV registrations, taken off the table.

Adopted.

HB 586, changing the expiration date of OHRV registrations.

SENATOR PATENAUDE: House Bill 586 changes the expiration date of OHRV registrations to coincide with the state fiscal year. Presently, registrations expire on October 1 of each year. Testimony suggested that this change will significantly decrease the administrative burden for the Department of Fish and Game. The Transportation Committee recommends HB 586 as ought to pass. A question was asked last time that we met, that if this bill was passed how would the registrations be prorated, and how will this change be handled? If this bill passes, the effective date will be January 1, 1998. Therefore, the 1998 and 1999 registration year will commence on July 1. Our records indicate that approximately forty-five thousand snowmobiles and ten thousand wheeled vehicles are registered each year. Additionally, most snowmobiles are registered from November to March. Most of the wheeled vehicles are registered from April to July; therefore, to facilitate the change in 1998 and 1999 registration will be available and effective on April 1, 1998. The wheeled vehicles will be allowed to operate for 15 months on that registration. The change will have no effect on snowmobiles. Thank you.

Question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

ANNOUNCEMENTS

SENATOR BARNES (RULE #44): I just want to let my colleagues know that I have had a dream for many years. Ever since my son, my oldest son, started playing little league baseball. Those of you who know me, know that I am a little bit of a baseball fan, and I am working with the little league, sponsoring the teams, coaching, umpiring and all of that good stuff down in Massachusetts in my earlier days, and then coming up here to New Hampshire and being involved as a sponsor and helping out whenever I could with the local program in Raymond. I always thought that oh my goodness, wouldn't it be fantastic if one of these young men or women, there were ladies on the teams, I didn't want to exclude that, I knew that Senator Pignatelli might question me on that one. My dream was that someday, one of those youth baseball players would make it to the major leagues. And guess what? Last night, in Minnesota, out in Minneapolis, a young man, twenty-one years old, by the name of Chris Carpenter, made his major league debut and pitched for the Blue Jays. He was drafted four years ago by the Blue Jays. It was not a very good opening except that he did make his debut. I am sure that Chris will be along. He went through the youth baseball programs in Raymond, New Hampshire. I am so darn happy for that young fellow that I just wanted to share my happiness and my dream being fulfilled with the rest of my colleagues. Thank you for bearing with me.

SENATOR J. KING (RULE #44): There is a plan that is in effect now that everybody loves to love, wants to be part of it. It is called the Senate Plan. You have probably read about it. Oh the Family Education Plan. After having people ask me why are you for it or questions about it, which I am not too sure of, I decided as Harry Truman used to say, "Set the record straight." We democrats believe that being an intricate part of the Senate, declare that our plan is the plan that has been presented by the governor. A plan that was spelled out during the election. A plan that explained what the program costs. A plan that explained how it should

be paid. Twenty-five cents on cigarettes. To top it off, the voters agreed with the governor's plan. That is the kindergarten plan endorsed by the most important group of all, the voters. Why don't we do the same thing, and we will call that the Senate Plan? Thank you.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, May 15, 1997 at 10:00 a.m..

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 121, relative to quality review for accountancy and requiring the board of accounting to adopt administrative rules.

HB 149-FN, relative to the regulation of the profession of physical therapy.

HB 151-FN-L, establishing comprehensive medical, physical and psychological standards for law enforcement officers.

HB 181, prohibiting the sale or distribution of exotic aquatic weeds and increasing certain fees.

HB 196-FN, providing for the regulation of horticultural growing media.

HB 210, requiring that an applicant to a planning or zoning board wishing to subdivide property supply the names of holders of conservation, preservation, or agriculture preservation restrictions on the subdivision property, who will then be notified by the board.

HB 226, relative to the composition of the aviation users advisory board.

HB 329, clarifying the applicability of the fireman's rule.

HB 340, relative to the real estate commission and its licensing and bonding requirements.

HB 378, regulating the practice of acupuncture.

HB 391, making the office of emergency management the administrator of the grant program for the civil air patrol in New Hampshire.

HB 445, extending the reporting date of the paperless title system study committee.

HB 447, eliminating the grandfather clause for licensure of professional engineers.

HB 453, relative to the bank commissioner's regulation of sales finance companies and retail sellers.

HB 469, relative to the rules of the board of dental examiners.

HB 473, relative to the use of watercraft and boats on the waters of Chocorua Lake in the town of Tamworth.

HB 495, prohibiting registered lobbyists from serving on the legislative ethics committee.

HB 528-L, relative to municipal water, gas and electric utilities.

HB 586, changing the expiration date of OHRV registrations.

HB 588-FN, relative to certification of operators of solid waste plants, water treatment plants and wastewater treatment plants, and adding late renewal fees.

HB 622-FN, relative to legislative approval of settlements of court claims against the state.

HB 653-L, relative to address numbers on streets and highways and relative to penalties for violations of certain planning and zoning laws.

HB 677-FN, increasing the wetlands excavating and dredging permit fee for major and minor projects.

HB 693, establishing a house committee to examine water quality issues.

HB 787-FN, requiring the executive council to hold public hearings on judicial appointments.

HB 797, requiring emergency vehicles to stop for school buses, and requiring the use of both audible and visual emergency signals, in certain circumstances.

Senator J. King moved that the Senate now adjourn until Thursday, May 15, 1997 at 10:00 a.m.

Adopted.

Adjournment.

May 15, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

Lord, when we are tempted to split ourselves up into good and bad, black and white, right and wrong, pull us, kicking and screaming, so closely together, that we cannot help but hear and see and learn and be touched even by those in whom we have the hardest time seeing anything that we think that we could agree with. But the truth is, You are probably working in them just as much as you are in me. Amen

Senator Podles led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 809, establishing a committee to study the feasibility of bringing the New England Patriots to New Hampshire.

HB 810, appropriating certain funds from the highway surplus account to the department of transportation.

Senator Barnes moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with the amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 75-FN, regulating beer festivals and requiring beer festival promoters to obtain a single event license for a fee from the liquor commission to hold a beer festival.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 75-FN, regulating beer festivals and requiring beer festival promoters to obtain a single event license for a fee from the liquor commission to hold a beer festival.

Senator F. King moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with the amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 38, relative to certain activities under the workers' compensation law.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 38, relative to certain activities under the workers' compensation law. Senator Danais moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 117, relative to Persian Gulf War bonus payments.

HB 370, updating and making technical corrections in certain banking laws.

HB 404, establishing a committee to study providing universal catastrophic health coverage by establishing a statewide catastrophic risk pool.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 44, establishing a committee to study the building of a state-owned liquor store in the city of Keene.

SB 47-FN, continuing the marital guardian ad litem recovery program in the unit of cost containment, office of the commissioner of administrative services.

SB 82, relative to determination of reasonable compensation for certain trustees.

SB 129, relative to manufactured housing deeds.

SB 143, authorizing a municipality to change the date for filing for an elderly exemption.

SB 176-FN, relative to late payment of the legacies and successions tax.

HOUSE MESSAGE

The House of Representatives has Re-referred to Committee the following entitled Senate Bills sent down from the Senate:

SB 1, relative to exclusive arrangements with managed care insurers.

SB 80-FN-A, excluding certain transfers from payment of the real estate transfer tax.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 13, relative to continuing education for claims adjusters.

SB 63-FN, relative to access to motor vehicle records.

SB 112, establishing a commission on environmental programs.

SB 190, exempting insurance companies newly located in New Hampshire from having to make payments to the administration fund during their first 3 years in the state and relative to investments by insurance companies in mutual funds.

CACR 13, the governor's veto power. Providing that the governor shall have line item reduction and line item veto power of items in any bill making appropriations of money.

COMMITTEE REPORTS

HB 799, regulating the sale of insurance by financial institutions. Banks Committee. Vote: 7-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1334s

09/01

Amendment to HB 799

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Service Corporations. Amend RSA 384:16-b by inserting after paragraph II the following paragraph:

III. Provided further that any contrary provision of law notwithstanding, the provisions of paragraph II apply only to a bank or banking association and its subsidiary and do not apply to an affiliate thereof, and the provisions of this section shall not be construed to prevent such bank, banking association, or subsidiary from conducting insurance activities pursuant to RSA 406-C and rules adopted under RSA 406-C, as permitted in RSA 394-A:9, if such financial institution or its subsidiary is located in a place of 5,000. A place of 5,000 means a town or city in this state with a population not exceeding 5,000 as determined by the last federal decennial census. An affiliate of any bank or banking association shall be bound by the provisions of RSA 406-C, with respect to sales of insurance in this state which are recommended or sponsored by a financial institution or sold on the premises of a financial institution.

2 Insurance; State-Chartered Financial Institutions. RSA 394-A:9 is repealed and reenacted to read as follows:

394-A:9 Insurance. Notwithstanding any other provision in this chapter to the contrary, this chapter shall not be interpreted to grant or to enlarge the power of any New Hampshire-chartered financial institution subject to this chapter to engage in the business of insurance or in any activity otherwise requiring licensing under RSA 401 or RSA 405; provided, however, that such a state-chartered financial institution may engage in the business of insurance to the same extent that a national bank or its subsidiary is permitted to engage in such business under 12 U.S.C. Section 92 subject to the following conditions:

I.(a) The insurance activity may be conducted only by the financial institution, or a subsidiary of the financial institution that is located in a place of 5,000. A place of 5,000 shall mean a town or city in this state with a population not exceeding 5,000 as determined by the last federal decennial census; and

(b) The conduct of the insurance activity shall comply with the provisions of RSA 406-C and any rules adopted thereunder, any applicable state insurance licensing laws and rules, and all applicable federal and state consumer protection laws, including the federal anti-tying provisions of 12 USC section 1972.

II. The provisions of this section and RSA 384:16-b, II and III shall not be construed to limit the authority of any credit union to engage in the business of insurance pursuant to the provisions of RSA 394-B:52-a.

III. The provisions of this section and RSA 384:16-b, II and III shall not be construed to limit the authority of a financial institution or its subsidiary to offer:

(a) Credit life, credit accident and health, credit property insurance, and credit involuntary unemployment insurance;

(b) Insurance purchased by such a financial institution in connection with collateral pledged as security for a loan when the debtor breaches the contractual obligation to provide that insurance;

(c) Private mortgage insurance;

(d) Mortgage life and mortgage disability insurance; and

(e) Travel accident and baggage insurance.

3 New Chapter; Sales of Insurance by Financial Institutions. Amend RSA by inserting after chapter 406-B the following new chapter:

CHAPTER 406-C

SALES OF INSURANCE BY FINANCIAL INSTITUTIONS

406-C:1 Purpose. The purpose of this chapter is to regulate the solicitation for purchase and the sale in this state of insurance by financial institutions in places with a population of 5,000 or fewer people and to direct and authorize the insurance commissioner to adopt such rules as may be necessary to protect the interests of insurance policyholders in this state and to maintain parity with respect to the insurance powers of state and federally chartered financial institutions.

406-C:2 Definitions. In this chapter:

I. "Commissioner" means the insurance commissioner.

II. "Customer" means a person with an investment, security, deposit, trust, or credit relationship with a financial institution.

III. "Insurance" means all products defined or regulated as insurance by the state of New Hampshire, except:

(a) Credit life, credit accident and health, credit property insurance, and credit involuntary unemployment insurance;

(b) Insurance purchased by a financial institution in connection with collateral pledged as security for a loan when the debtor breaches the contractual obligation to provide that insurance;

(c) Private mortgage insurance;

(d) Mortgage life and mortgage disability insurance; and

(e) Travel accident and baggage insurance.

IV. "Financial institution" means:

(a) A bank, savings bank, savings and loan association, trust company, or any depository institution as defined by the Federal Deposit Insurance Act, as amended, 12 U.S.C. section 1813(c)(1) which is authorized to take deposits and make loans from a place of business in the state;

(b) Any subsidiary of any of the above described depository institutions; and

(c) Any individual, corporation, partnership, or association required to be licensed by the New Hampshire bank commissioner to make loans in the state.

For the purposes of this chapter, "financial institutions" described in subparagraphs (a) and (b) of this paragraph shall include only those institutions that are located in a place of 5,000. The term financial institution does not include an insurance company subject to regulation under Title XXXVII.

V. "Nonpublic customer information" means information regarding a person that has been derived from a record of a financial institution concerning insurance premiums, the terms and conditions of insurance coverage, insurance expirations, insurance claims, and insurance history of an individual, and such other information as established by rules adopted by the commissioner. "Nonpublic customer information" does not include customer names, addresses, and telephone numbers.

VI. "Place of 5,000" means a town or city in this state with a population of 5,000 or fewer people according to the latest federal decennial census.

406-C:3 License for Insurance Sales. A financial institution and the employees of a financial institution conducting insurance sales shall be required to obtain an agent's or broker's license authorizing the sale of insurance by complying with the licensing requirements of RSA 402:16 or RSA 405:32.

406-C:4 Prohibition on Underwriting. Neither this chapter, nor RSA 384:16-b, III shall be construed to authorize any financial institution to engage in the underwriting of any insurance product or in any insurance underwriting activity requiring licensure under RSA 402 or RSA 405.

406-C:5 Licensure Requirement. Solicitation for the purchase or sale of any insurance product by the financial institution shall be conducted

only by persons who are licensed and have complied with all applicable state insurance licensing laws and rules, and are officers, directors, or employees of the financial institution.

406-C:6 Authorized Carriers. A financial institution shall offer only insurance products of approved surplus lines carriers or approved products of insurance companies authorized to do insurance business in New Hampshire.

406-C:7 Separation of Activities.

I. Solicitation for the purchase or sale of insurance by the financial institution shall, to avoid customer confusion and to the extent practicable, be conducted in a physical location distinct from the area where retail deposits or credit transactions are being conducted in accordance with rules adopted by the commissioner.

II. Solicitation for the purchase or sale of insurance by a licensed employee who exercises authority over credit transactions shall be conducted in a manner which addresses the potential for customer confusion and coercion consistent with rules adopted by the commissioner.

III. Signage, informational materials, and sales literature concerning the availability of insurance products through the financial institution shall be utilized and displayed in accordance with rules adopted by the commissioner.

IV. If the product name under which the insurance contract is marketed includes the name of a financial institution, then the marketing material must, in accordance with rules adopted by the commissioner, prominently identify the insurance company which issues and underwrites the insurance contract.

406-C:8 Disclosures.

I. To avoid customer confusion and in addition to any other requisite disclosures, all advertising, promotional material and solicitation, including telemarketing contacts, shall, as required under rules, bulletins, or interpretive rulings adopted or promulgated by the commissioner, include a prominent disclosure that substantively states that a purchase of insurance:

(a) Is not a deposit;

(b) Is not insured by the Federal Deposit Insurance Corporation or any other agency or instrumentality of the federal government;

(c) Is not guaranteed by the financial institution or an affiliate, unless the insurance is guaranteed by such financial institution or its affiliate in which case the nature of the guarantee and identity of the guarantor shall be disclosed; and

(d) Where appropriate, involves investment risk, including potential loss of principal.

II. At the time of sale, the financial institution shall also provide written disclosure of how to complain to the insurance department about problems in the sale or solicitation of an insurance product. Other than disclosing how to complain to the insurance department, a financial institution that does not accept insured deposits is not required to disclose items I(a) through (c) of this section.

406-C:9 Confidential Customer Information.

I. The financial institution shall not use any nonpublic customer information, other than information pertaining solely to insurance transactions or experiences between a customer and a financial institution or its affiliate or subsidiary, for the purpose of selling or soliciting the purchase of insurance or provide the nonpublic customer information to a third party for the purpose of another's sale or solicitation of the purchase of insurance, unless it is clearly and conspicuously disclosed that the information may be so used and the customer has provided prior written consent to the use for this purpose.

II. Written consent for use of any nonpublic customer information shall not be required as a condition for performance by the financial institution of banking services for the customer.

406-C:10 Prohibition on Tying of Banking and Insurance Products.

I. The financial institution shall not require or imply that the purchase of an insurance product by a customer or prospective customer is required as a condition of, or is in any way related to, the lending of money or extension of credit or the provision of services related to any such activities. A written disclosure to this effect, or such other disclosure as the department may authorize through rulemaking, shall be expressly acknowledged by the customer and shall include notice that the customer is free to select another insurance provider and that the customer's choice of another insurance provider will not affect the financial institution's credit decisions or credit terms in any way. The written disclosure shall be acknowledged at the time that a customer applying for the lending of money or an extension of credit is first informed that insurance is available through the financial institution.

II. The completion of a loan transaction or other transactions involving the extension of credit shall not be delayed or impeded by an officer or employee of a financial institution for the purpose of influencing a customer's selection or purchase of insurance.

406-C:11 Prohibition on Discrimination Against Non-Affiliated Agents.

I. The financial institution shall not condition the provision of any product or service to any customer upon the purchase of a policy or contract of insurance through a particular insurer, agent, or broker or reject any insurance policy required in connection with a loan or extension of credit solely because such policy has been issued or underwritten by any person who is not associated with such institution.

II. The financial institution shall not impose any discriminatory requirement on any insurance agent or broker who is not associated with the financial institution that is not imposed on any insurance agent who is associated with such institution.

III. Unless otherwise authorized by any applicable federal or state law, no financial institution shall require any debtor, insurer, broker, or agent to pay a separate charge in connection with the handling of insurance that is required under a contract.

406-C:12 Prohibited Practices.

I. No employee of a financial institution who is not licensed as an insurance agent or broker shall, directly or indirectly, receive any com-

pensation or consideration from an insurance agent or broker, insurance agency, insurance company, or a financial institution, based upon referral of potential insurance purchasers to, or making appointments with, a licensed insurance agent or broker.

II. The financial institution shall not offer, recommend, sponsor, or sell an insurance product which has not been properly approved for sale to New Hampshire residents.

III. An insurance product shall not be offered in a package with non-insurance products in violation of rules adopted by the commissioner to prohibit unlawful tying activities, rebating, and unfair competition with respect to insurance sales.

IV. The payment for rental or lease of space by an unlicensed financial institution to an insurance agent or broker shall not be based directly or indirectly on the volume of premium written or insurance sold by the agent or broker.

406-C:13 Application of State and Federal Consumer Protection Provisions. Any financial institution which solicits or sells insurance products pursuant to RSA 384:16-b, III and this chapter shall be subject to all applicable federal and state consumer protection laws, including the federal anti-tying provisions of 12 USC section 1972.

406-C:14 Insurance Records. Books and records relating to the insurance transactions of a financial institution licensed to sell insurance, including all files relating to and reflecting customer complaints, shall be kept separate and apart from all records relating to other business transactions of such financial institution, and shall be made available to the insurance department for inspection upon reasonable notice.

406-C:15 Examination Authority. The insurance activities of financial institutions pursuant to RSA 384:16-b, III and this chapter shall be subject to examination by the commissioner and the commissioner is authorized to impose reasonable and customary assessments on the financial institution for such examination.

406-C:16 Rulemaking Authority for Implementing Regulations.

I. The commissioner may adopt rules to effectuate the purposes of this chapter, which are to protect the insurance buying public from potential coercion by financial institutions, to minimize the possibilities of unfair competitive practices by financial institutions that harm the public, and to maintain parity with respect to the insurance powers of state and federally chartered financial institutions.

II. The commissioner may also adopt rules which would vary the provisions of this chapter, if essential, and for the sole purpose of maintaining parity and eliminating competitive advantages enjoyed by federally chartered financial institutions, upon a determination by the commissioner that a specific federal law, regulation or ruling creates a substantial disparity in the insurance agency powers of state and federal financial institutions in this state. Any rule adopted pursuant to this paragraph shall not diminish any consumer protection afforded under this chapter. The commissioner shall seek appropriate legislation amending any affected provisions of this chapter at the earliest legislative opportunity.

III. Rules adopted by the commissioner under this chapter shall be adopted pursuant to RSA 541-A. Notwithstanding RSA 541-A:17, I, or any other law to the contrary, any rule adopted under this chapter shall continue in force and effect until amended or repealed.

406-C:17 Enforcement. Any person violating the provisions of this chapter shall be subject to any and all enforcement procedures within the authority of the insurance department including, but not limited to, the issuance of a cease and desist order requiring such person to cease all insurance sales and solicitation activities.

406-C:18 Penalties. Any financial institution violating any of the provisions of this chapter or any rule adopted under this chapter may be subject to an administrative fine not to exceed \$2,500 per violation. The commissioner may also suspend or revoke the license of any financial institution or other person or organization for any violation of this chapter or rule or for failure to comply with an order, including a cease and desist order, of the commissioner issued under this chapter.

406-C:19 Provisions Severable. If any provision of this chapter or the application thereof to any person or circumstance is held to be invalid for any reason, such invalidity shall not affect any other provisions or applications of this chapter which can be given effect without the invalid provisions of applications, and to this end the provisions of this chapter are severable.

4 Effective Date. This act shall take effect 60 days after passage.

SENATOR FRASER: Mr. President, HB 799 began as a bill designed to implement the insurance agents' version of the dispute between the banks and the agents regarding banks' sales of insurance. As you may recall, we passed SB 121 some time ago, in which we took the position that state chartered banks should have full priority with national banks with respect to sales and insurance. That principle has been preserved in this bill that has undergone three significant changes since it was proposed by a House study committee. First it was amended by the House in support of a compromise among the bankers and the independent insurance agents of New Hampshire and the New Hampshire Association of Life Underwriters. A compromise that while drafted under a time constraint, has in concept, pretty much held up. The second change was in the form of an amendment that I submitted to the Senate committee. That amendment reflected further fine tuning of the House version by more of the parties involved with the full support and cooperation of three House members interested in the bill and the banking and insurance departments. The third change occurred in the Senate Banks Committee hearing in response to the concerns or represented by the Professional Insurance Agents of America. That change prohibits rebate type referral fees of up to \$20 per rereferral allowed by the House. With that change, which like the rest of them are subject to further rulemaking by the department of insurance, in this case, dealing with the difference between prohibiting rebate type referral fees and legitimate and bonafide programmable compensation. The bill now has the full support of both the Bank and Insurance Commissioners, the banking and insurance industries in general and many others that were involved in the process. Mr. President, this has been a very contentious issue over the

years and the many interested parties who worked to get it resolved including the House committee chairman are to be congratulated. The committee was unanimous in recommending that this bill be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 268-FN, relative to the Pease development authority. Economic Development Committee. Vote: 6-1. Inexpedient to legislate, Senator McCarley for the committee.

SENATOR MCCARLEY: House Bill 268-FN establishes an oversight committee to serve as a liaison between the Pease Development Authority and the legislature. This bill does not add members to the existing PDA - of which there are seven members - none of whom are legislators; this bill creates an entirely new committee. House Bill 268 also requires the PDA to share business inquiries with the Department of Resources and Economic Development. During the hearings on this bill, the committee heard testimony that Ad Hoc Oversight already occurs and can continue to occur given the existing public access to PDA meetings. The committee also heard that the PDA already shares business inquiries with DRED and other entities around the state. Such a sharing is not always possible, however, as some businesses inquiring about coming to New Hampshire are interested only in setting up shop at Pease. The committee realizes that the duties of the PDA are crucial to the economic development of the seacoast. However, given that oversight can and does currently occur and given that the PDA already shares business inquiries and finally given that the PDA has made great strides in developing the base, the committee feels that legislative interference is currently unnecessary. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senator Whipple in opposition to the motion of inexpedient to legislate on HB 268.

HB 716-FN, relative to economic development and retention rates and special contracts. Economic Development Committee. Vote: 7-0. Rereferred to committee, Senator Whipple for the committee.

SENATOR WHIPPLE: Though there was certainly support for this bill both in the House and in the Senate Economic Development Committee, attempts to satisfy some fundamental concerns regarding the bill have failed - at least for now. The committee appreciates all of the hard work that went into this bill. However, it is because of the hard work and it is because of many unresolved issues, namely passing the cost of discounts on to ratepayers, that the committee recommends unanimously that this bill be re-referred.

Committee report of rereferred is adopted.

HB 102-L, relative to school employee background investigations. Education Committee. Vote: 5-1. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 102 requires that all school employees have a background criminal check at the original hiring or change of employment. This is a measure to help ensure that people who would harm children don't get the opportunity to work with them. Teachers are currently required to undergo a background check every time they are recertified, that is every three years. This bill changes it to only one check when they are hired. By changing the background check from certification to upon hiring, you will eliminate the unnecessary and repetitive checks on teachers whom everyone knows well enough keep an eye on, on their own, and on people who remain certified but do not work in a school setting. The most important feature of this bill is that it broadens the scope of who is subject to the checks, to include those other school employees who work with and have contact with children. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 110, relative to the use of and school district liability for the use of district computer systems and networks. Education Committee. Vote: 5-1. Ought to pass, Senator McCarley for the committee.

SENATOR MCCARLEY: House Bill 110 provides that school districts adopt policies relative to the use of and school district liability for the use of district computer systems and networks. Adoption of these policies will help to protect school districts against litigation in the event that someone causes problems through the use of the district's computer system. The districts will adopt policies outlining the appropriate uses of their systems and would not be liable for any inappropriate usage. The committee recommends this bill as ought to pass.

Senator Francoeur moved to have **HB 110**, relative to the use of and school district liability for the use of district computer systems and networks, laid on the table.

Adopted.

LAID ON THE TABLE

HB 110, relative to the use of and school district liability for the use of district computer systems and networks.

HB 229-FN-L, establishing a reading recovery training program. Education Committee. Vote: 4-3. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 229 establishes in legislation a reading recovery training program for first grade teachers. The Department of Education would train additional teachers in reading recovery using money already appropriated in the budget to cover the training. The students that would receive the assistance would be those at the bottom 20 percent of their class in reading ability. This program was started as a pilot program and since its inception has been funded every year. This bill puts the program into statute so that in the event the line item funding for the program is taken out of the budget, the program continues though, without funding. The committee recommends this bill as ought to pass.

Recess.

Out of recess.

Question is on challenging the Chair to have HB 299-FN-L sent to Finance (Rule #24).

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, McCarley, Patenaude, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Danaïs, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: D. Wheeler, Francoeur.

Yeas: 21 - Nays: 2

Adopted.

Referred to the Finance Committee (Rule #24).

HB 262-FN-A-L, establishing a National Information Infrastructure oversight committee. Education Committee. Vote: 6-1. Ought to pass with amendment, Senator Rubens for the committee.

1997-1327s

04/01

Amendment to HB 262-FN-A-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to oversee a statewide school technology plan.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established an oversight committee to oversee the department of education in developing and implementing a statewide school technology plan.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, two from the education committee and one from the finance committee, appointed by the president of the senate.

(b) Three members of the house of representatives, one from the education committee, one from the science, technology and energy committee, and one from the finance committee, appointed by the speaker of the house.

II. The members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall oversee the department of education which shall develop and implement a statewide school technology plan using qualified staff from the department of education. The committee shall also determine the means of funding such plan.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this act. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library no later than November 1, 1997, for submission in the 1998 legislative session.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a committee to oversee the department of education in developing and implementing a school technology plan.

SENATOR RUBENS: This bill establishes an oversight committee to oversee the education department in developing and implementing a statewide school technology plan. This committee will oversee the department of education as they plan to link all of the schools in the state through the Internet. The department will develop an overall plan for the state as far as schools hooking up to the Internet so that various schools around the state are not randomly assigned to deal with the issue. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senator D. Wheeler in opposition to HB 262-FN-A-L.

HB 289-L, authorizing annual school district meetings to be held at multiple locations. Education Committee. Vote: 6-0. Ought to pass with amendment, Senator Rubens for the committee.

1997-1329s

04/09

Amendment to HB 289-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT authorizing annual school district meetings to be held at multiple locations, and relative to budgetary official ballot.

Amend the bill by replacing section 2 with the following:

2 "Place" Changed to "Places." Amend RSA 197:4 to read as follows:

197:4 [Place] ***Meeting Places.*** School district meetings, ***including the first session of meetings in school districts which have adopted official ballot voting procedures under RSA 40:13 and 14,*** may be held at such suitable [place] ***places, which have 2-way visual and audio closed circuit capacity,*** as in the opinion of the officers calling the meeting will best accommodate the voters.

Amend the bill by replacing all after section 7 with the following:

8 Budgetary Official Ballot; Village Districts. Amend RSA 52:2-a to read as follows:

52:2-a Budgetary Official Ballot. Notwithstanding any other provision of law, any village district may vote to raise and appropriate money for the support of the district by official ballot as provided for in RSA 49-D:3, II-a, by following the procedures set forth in RSA 49-B. ***The village district may also include within its charter a plan for voting by official ballot, pursuant to RSA 49-B and RSA 49-D, on such other warrant articles as the village district may determine.*** For the purposes of this section, all references in RSA 49-B ***and RSA 49-D*** to "municipal," "municipality," "city," and "town" shall mean and include "village district," and all references to "elected body" and "governing body" shall mean and include "district commissioners."

9 Budgetary Official Ballot; School Districts. Amend RSA 197:5-b to read as follows:

197:5-b Budgetary Official Ballot. Notwithstanding any other provision of law, any school district may vote to raise and appropriate money for the support of schools by official ballot as provided for in RSA 49-D:3,

II-a by following the procedures set forth in RSA 49-B. *The school district may also include within its charter a plan for voting by official ballot, pursuant to RSA 49-B and RSA 49-D, on such other warrant articles as the school district may determine.* For purposes of this section, all references in RSA 49-B and RSA 49-D to "municipal," "municipality," "city," and "town" shall mean and include "school district," and all references to "elected body" and "governing body" shall mean and include "school board."

10 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

Section 2 of this bill authorizes school districts to hold their annual district meetings at multiple locations which have 2-way audio and visual closed circuit capacity.

Sections 8 and 9 of this bill make the charter amendment official ballot voting option in school districts and village districts applicable to some or all warrant articles, at the locality's option, rather than limited to money raising articles.

The remainder of this bill amends certain RSA provisions making them gender neutral in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR RUBENS: This bill allows school districts to hold meetings in more than one location as long as the locations involved are equipped with two-way audio and video closed circuit capacity. This serves to ease the problem that some towns have, some school districts have in that there are more voters than the largest building that the school district has available and can accommodate. The bill will also allow school and village districts to vote on budgetary as well as non budgetary items by official ballot provided that the districts have adopted official ballot voting. The committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 501, including blindness in the special education provisions, and allowing attorneys to act as neutrals in special education dispute resolution. Education Committee. Vote: 7-0. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 501 brings New Hampshire's statutes into compliance with federal regulations by adding "blindness" to the definition of "educationally disabled child." The bill also repeals a restriction that did not allow attorneys to act as neutrals in special education dispute resolutions. This repeal of the restrictions is to allow more people with adequate qualifications to act as neutrals in these sessions. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 525-L, relative to Braille instruction for functionally blind pupils. Education Committee. Vote: 5-1. Ought to pass, Senator Johnson for the committee.

SENATOR JOHNSON: This bill establishes a Braille instruction program for functionally blind pupils under special education services. The opportu-

nity to learn Braille needs to be optimized in New Hampshire. People who are blind are helped tremendously by the use of Braille, especially when learned at an early age. The bill also defines what constitutes "functionally blind." The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 201-L, allowing municipalities to apply the amount of a property tax abatement refund to outstanding taxes owed by the taxpayer. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Roberge for the committee.

1997-1317s

09/02

Amendment to HB 201-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT allowing municipalities to apply the amount of a property tax abatement refund to outstanding taxes owed by the taxpayer, relative to the procedure for adoption and modification of elderly exemptions, and authorizing the city of Dover to implement quarterly property tax billing.

Amend the bill by replacing all after section 1 with the following:

2 Procedure for Adoption and Modification of Elderly Exemption.

Amend RSA 72:39-b, I-a to read as follows:

(a) In a town *with a town meeting legislative body*, the question shall be placed on the warrant of a special or annual town meeting under the procedures set out in RSA 39, and shall be voted upon by ballot. In ~~a city~~ *any other municipality*, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. The legislative body of ~~a city~~ *such municipality* may vote to place the question on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.

3 New Paragraph; City of Dover; Quarterly Property Tax Billing. Amend 1982, 28:1 by inserting after paragraph III the following new paragraph:

IV. Notwithstanding the provisions of paragraphs I-III of this section and any other provision of law, the Dover city council, by a 2/3 vote, may adopt the following provisions to implement quarterly due dates for property taxes:

(a) For property taxes assessed on April 1 following the vote to adopt, and in all subsequent years, property taxes shall be due and payable on September 1, December 1, March 1, and June 1. The March and June due dates shall be in the subsequent calendar year to the April 1 assessment date.

(1) A partial estimated amount to be due on September 1 shall be computed by taking the prior year's assessed valuation times $\frac{1}{4}$ of the previous year's established tax rate. Whenever it appears to the assessor that certain individual properties have physically changed in valuation, the assessor may use the current year's appraisal times $\frac{1}{4}$ of the previous year's tax rate to compute the partial estimated amount due.

(2) The remainder of the property taxes shall be due on December 1, March 1, and June 1. The amounts due for these 3 due dates shall

be computed by calculating the total property taxes due for the year for each parcel, subtracting the estimated partial amount and dividing the remainder into 3 equal amounts.

(b) The "date of the final tax bill" pursuant to RSA 72:1-d, I(c) means the mailing date of the bill for the December 1 due date, provided that the bill establishes the total tax liability for the tax year and the bill includes notice that abatements shall be sought from this bill.

(c) Interest shall accrue on unpaid taxes at the rate set by RSA 76:13 after each of the due dates.

(d) All mailings for property tax amounts due shall occur no later than 30 days prior to the due date.

(e) For the purposes of RSA 80:59, relative to real estate tax lien; optional procedure, real estate shall be subject to liens when all taxes owed are not paid in full on or before the final due date after the assessment.

4 Effective Date.

I. Section 1 of this act shall take effect January 1, 1998.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill allows municipalities to apply the amount of a property tax abatement refund to outstanding taxes owed by the taxpayer to the municipality.

The bill clarifies the procedure for adoption of elderly exemptions in towns which do not have town meeting legislative bodies.

The bill also authorizes the city of Dover to implement quarterly property tax billing.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 201-L enabling legislation that allows municipalities to apply the amount of a taxpayer's property tax abatement to a taxpayer's outstanding balance of delinquent taxes. The genesis of this bill came from numerous taxpayer requests that abatements be paid in full directly to the taxpayer rather than applied to back taxes. Such requests caused the New Hampshire Board of Tax and Land Appeals - in 1993 to create administrative rules which state "Payment of abatements shall be by check or cash, and shall not be by credit to other taxes." Therefore, a taxpayer granted an abatement of five thousand dollars who still owes the municipality thirty thousand dollars in back taxes, will be cut a check for the five thousand dollars rather than the taxpayer having a remaining tax balance of twenty-five thousand dollars. Such a practice is problematic for towns and cities that inflate their overlay accounts in anticipation of overdue tax payments. House Bill 201-L will allow municipalities to more efficiently maintain their overlay accounts. The committee adopted two amendments to HB 201. The first amendment changes the procedure for adoption and modification of elderly exemptions. Current statute does not provide means for charter towns such as Hooksett, Bedford, Derry, Newmarket and Londonderry to exceed the five thousand dollars elderly exemptions cap. House Bill 201 includes charter towns under RSA 72:39-b, thus providing charter towns with a means to surpass the elderly exemption cap. The second amendment is enabling legislation that allows the city of Dover to conduct quarterly tax billings. Quarterly tax billing will enable the city of Dover to depend less on short-term borrowing and would assist the city in increasing its bond rating. The committee recommends unanimously this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 257, offering priority to qualified veterans for participation in training programs funded by the state or federal government. Public Affairs Committee. Vote: 7-0. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: House Bill 257 offers priority to qualified veterans for participation in training programs funded by the state or federal government. Priority status will be given only if the veteran first meets the qualifications of the federal or state training program. As the federal armed services budget is cut, so are programs geared toward veterans benefits. As the trend in block grants grows, federal programs for veterans become vulnerable. This bill will insure that those who have served and fought for this country are afforded benefits for their efforts. The committee recommends unanimously this bill ought to pass.

Adopted.

Ordered to third reading.

HB 291, relative to the use of the terms "native," "local," and "our own" when referring to farm products. Public Affairs Committee. Vote: 7-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 291 arose from minor problems relating to competition in the New Hampshire farm industry. The bill aims to clarify the terms "native," "local," and "our own," so that producers, retailers, and consumers alike will be able to rely on standardized language. House Bill 291 restricts the use of the word "native" to those products grown or produced in the state of New Hampshire. Currently retailers and distributors must include immediately after the term "native" the name of the state in which the product was grown. The Department of Agriculture would like the term "native" to automatically indicate a New Hampshire product. House Bill 291 also limits the use of the word "local" to refer only to those farm products grown or produced within New Hampshire and deems the term "our own" to be deceptive when used to describe farm products not grown or produced by the operator of a retail location. Currently, retailers are buying produce from other states and are selling that same produce in New Hampshire using the term "our own" to advertise the product. Finally, HB 291 adds "locally grown," "locally produced," and "our own" to the terms which when improperly used in advertising farm products may result in stop sale, use, or removal order by the commissioner. No one opposed the bill at the hearing. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 344, relative to planning board procedures on plats. Public Affairs Committee. Vote: 7-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-1313s

10/01

Amendment to HB 344

Amend RSA 676:4, I(c)(1) as inserted by section 1 of the bill by replacing it with the following:

(c)(1) The board shall begin formal consideration of the *completed* application within 30 days after [submission of the completed application] *its acceptance. Upon a determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determi-*

nation and the reason within 30 days of the submission. The board shall act to approve, conditionally approve as provided in subparagraph (i), or disapprove within 90 days after [submission] ***acceptance as a completed application by the board,*** subject to extension or waiver as provided in subparagraph (f). Upon failure of the board to approve, conditionally approve, or disapprove the application, the selectmen or city council shall, upon request of the applicant, immediately issue an order directing the board to act on the application within 30 days. If the planning board does not act on the application within that 30 day time period, then within 40 days of the issuance of the order, the selectmen or city council shall certify on the applicant's application that the plat is approved pursuant to this paragraph, unless within those 40 days the selectmen or city council has identified in writing some specific subdivision regulation or zoning or other ordinance provision with which the application does not comply. Such a certification, citing this paragraph, shall constitute final approval for all purposes including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

SENATOR PATENAUE: This bill was recommitted during session on April 24 for the purpose of attaching an amendment suggested by the secretary of state's office. Specifically the amendment adds the sentence "Upon a determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determination and the reason within 30 days of the submission." The board will then have 90 days after the acceptance of a completed application to approve, conditionally approve or disapprove the application. The committee voted to adopt the amendment to further clarify when a planning board shall begin consideration of a plat application. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 399-L, changing the name of the optional property tax exemption for the totally and permanently disabled. Public Affairs Committee. Vote: 4-3. Ought to pass, Senator Rubens for the committee.

SENATOR RUBENS: House Bill 399-Local changes the property tax exemption for the "totally and permanently disabled" to an exemption of the "disabled." This bill is simply a language change to bring state statute pertaining to property tax exemptions for the elderly in line with federal law outlined in the Social Security Act. Currently, RSA 72:37-b lists that an individual shall qualify for tax exemptions if that individual is "totally and permanently" disabled as defined by Title II and Title XVI of the federal Social Security Act. However, the federal Social Security Act no longer makes reference to the "totally and permanently disabled." Only "disabled" persons are referenced under Chapter 7 of the federal Social Security Act. No one who is ineligible now will be able to collect disability benefits once HB 399 is passed by the full Senate. The committee recognizes that defining the term "permanently disabled" is an issue that continues to perplex legislators at a local, state, and federal level given that medical and technological advancements make it difficult to determine the permanence of any condition. The majority of the committee recommends that this bill ought to pass.

SENATOR WHIPPLE: This bill sounds great and I support the idea, however, I think that the system as we have it today is working. I be-

lieve that if we pass this legislation that we could jeopardize the existing benefits that are now being received by the totally and permanently disabled. As long as we are aware of that, I just want to make sure that I am on record that I am informing everyone that I believe that is what's going to or could happen.

SENATOR DANAIS: Senator Whipple, is it my understanding or am I wrong that all that we are trying to do is to conform to federal law?

SENATOR WHIPPLE: That is what the sponsors claim. The problem is that when we pass this legislation, when the Senate passed it four or five years ago, it was passed specifically for "permanently and totally disabled persons." There was a definition of "permanently and totally disabled" at the time and that commission is still available and still holds. They have changed the federal law to eliminate it; however, that original definition is still available and many communities are still using that original definition to determine an applicant's ability to receive this exemption. What I am afraid that is going to happen is that when you take out "permanently" and "totally," now it will open it up to everybody who is disabled. Some communities who have already given this exemption to "permanently and totally disabled," will feel that they cannot afford to give it to everybody, consequently, the people that need it the most, the people who are really totally and permanently disabled, will lose it.

SENATOR DANAIS: It is my understanding, that if you don't pass the bill it will be the opposite effect because you will be in non-conforming use with the federal statute and therefore, the benefit will not be available. Is that an accurate statement, that it will be non-conforming?

SENATOR WHIPPLE: I don't believe so, because currently communities are doing it, so if it is non-conforming, they are still doing it, because they are going by the original intent of the law as originally passed.

SENATOR K. WHEELER: Just in response to some of the concerns expressed by Senator Whipple, I want to make sure that the full Senate is aware that this bill is supported by the New Hampshire Municipal Association and the Social Security Administration. It is a bi-partisan effort. It does not broaden eligibility for the exemption but it helps clarify the towns that are having trouble with the definition, and there are towns having trouble, including my town. This would simplify things for the towns. The local officials are now confused because of inconsistency between state and federal definitions. When they try to look up "permanently and totally disabled," they can't find it in the federal statutes because it doesn't exist. I encourage you to support this piece of legislation. It will in no way expand eligibility. The only thing that we are talking about is people... the federal definition says that you have to be near death or to have been disabled for at least 12 months to be permanently disabled. The state, we have wrestled many times, I am sure that many of you remember arguments regarding how we are going to define "permanent disability." I think that it is more functional to use the social security definition rather than to try and have each town make its own determination. Thank you.

SENATOR RUSSMAN: If you look at the actual statute itself, it does refer to, under the federal social security act for benefits to "totally and permanently disabled." The way that I see it, I think that perhaps this would... not that I don't want lawyers to have work... but this certainly would give an opportunity for somebody who was turned down to argue and perhaps bring an action against the town relative to what the defi-

nition is considering it is not in compliance. It makes sense to actually bring it into compliance with the federal statute since that is what we are using as a basis for whether or not we should determine it. Additionally, I think that it is important to remember that the person has to be held to be unable to do any employment, not just their old job, but any employment for at least one year, so it is not something that willy-nilly is granted in any fashion. As far as I know, each community reviews it each year to make sure that the person does comply. I think that it does make some sense to bring it into compliance with the federal statutes.

SENATOR RUBENS: If you would look at the bill on line four, you will see the language, "Eligible under title II and title XVI of the federal Social Security Act." That is the criteria by which someone becomes eligible. Then you will see a modifying phrase under existing law that is struck under the bill, "For benefits to the totally and permanently disabled." The committee was closely divided on it, but the majority of the committee feels that this bill does not expand eligibility, it simply removes from existing statute, contradictory language, contradictory modifying, potentially modifying phrase, a predominant phraseology which determines eligibility is on line four, title II or title XVI of the federal SSA so we are not attempting to change eligibility with this. Thank you.

Adopted.

Ordered to third reading.

Senator Whipple in opposition to the motion of ought to pass on HB 399.

HB 401, repealing the prospective repeal of the healthy kids corporation. Public Institutions, Health and Human Services Committee. Vote: 3-2. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 401 will repeal the prospective repeal of the Healthy Kids Corporation. It sounds like a double negative, doesn't it? But in essence, it eliminates the sunset clause that is now on the Healthy Kids Corporation. The Healthy Kids Corporation was established in 1993 to address the problems that a growing number of children in this state are uninsured. With this program, for a reasonable cost, health insurances provided the families who make too much to qualify for Medicaid, but where insurance is not available, they can't find insurance or pay for insurance through other means. This program is helping to insure these kids become healthy adults. The Healthy Kids Corporation currently is scheduled to be repealed in July of this year. The Healthy Kids Corporation program has proven its necessity and has even received national acclaim. It should be established permanently. The Healthy Kids Corporation helps to increase the affordability and accessibility of health insurance for children. If this program is repealed, we would have to go back and re-invent another one as we are currently seeking waiver monies through the Welfare Reform Act to help subsidize the cost of the premium to the low income working families. The Public Institutions, Health and Human Services recommend that this bill pass.

Adopted.

Ordered to third reading.

Senator D. Wheeler in opposition to HB 401.

HB 470, implementing recommendations of the Centers for Disease Control and Prevention relative to the laws requiring a prescription to possess hypodermic needles and modifying the drug paraphernalia laws

applying to syringes. Public Institutions, Health and Human Services Committee. Vote: 3-2. Inexpedient to legislate, Senator Squires for the committee.

SENATOR SQUIRES: Mr. President, HB 470 would allow any person over the age of 18 to purchase a hypodermic needle without a prescription. The committee strongly supports the need to contain the growing spurt of AIDS and other infectious blood borne diseases in New Hampshire and across the country. However, we should not be giving these offenders the means by which to continue their illegal conduct. The committee does not support weakening the fight against drugs and drug abuse by making it easier for these individuals to access needles. What message are we sending the young people of our state by implementing laws condoning the purchase of needles that makes illegal drug use possible? House Bill 470 may be well meaning and ending the spread of AIDS, but is this the really most appropriate means for doing so? This bill is simply treating a symptom of a more serious problem. We should not in any way sanction this anti-social, criminal behavior. What about the issue of safe needle disposal? The concern still exists that these dirty needles would not be appropriately disposed and in effect, pose a greater risk to anyone who may come in contact with them including our children. Should we believe someone who is participating in the unlawful activity of drug use is responsible enough to properly dispose of dirty needles. The committee did not hear testimony to substantiate that by supplying drug users with sterile needles that the problem with needle sharing would be reduced. We, as legislators, should be passing laws to eradicate illegal drug use while not encouraging it. The Public Institutions, Health and Human Services Committee recommend inexpedient to legislate.

SENATOR K. WHEELER: I rise in opposition to the committee report of inexpedient to legislate. I believe that HB 470 is a very important public health measure. There is no evidence to indicate that intravenous drug use increases in states that have no needle regulation. In fact, New Hampshire is one of only nine states that does require a prescription. We are definitely in the minority. In Connecticut, which passed the law in 1992 permitting pharmacies to sell syringes without a prescription, needle sharing among drug users fell forty percent. This initiative is supported by many prestigious national and international organizations, including the Center for Disease Control, the National Science Foundation, the National Institutes of Health, the National Academy of Science and an institution in and of himself, Doctor C. Everett Koop. All of these people and institutions, support this initiative. In 1995 New Hampshire had one hundred and nine new AIDS cases and fifty-four HIV positive cases. In 1996 New Hampshire had ninety-three new AIDS cases and fifty-two new HIV positive cases. What are we doing to stop the spread of AIDS? If even a portion of these cases results in Medicaid dependent patients, the cost to the state would be astronomical. It is estimated that each case result in one hundred and nineteen thousand dollars direct costs to the state of New Hampshire. House Bill 470 is not just good health policy, it makes economic sense. By passing this we will save hundreds of lives and millions of dollars. I ask you seriously, to think, can you imagine a scenario where a person says, "Oh my gosh, I can now buy a needle without a prescription, I am going to go and shoot up." It isn't going to happen that way folks. It just makes sure that we are not passing on dirty needles to intravenous drug users who will inadvertently, or perhaps advertently, share their HIV with someone who is innocent and didn't deserve this.

SENATOR BARNES: Senator Wheeler, would you believe that I disagree?

SENATOR K. WHEELER: I would believe that.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Roberge, D. Wheeler, Squires, Pignatelli, Francoeur, Podles, Barnes, J. King, Russman, Danais, Delahunty.

The following Senators voted No: McCarley, Patenaude, Whipple, Blaisdell, Larsen, K. Wheeler, Hollingworth, Cohen.

Yeas: 16 - Nays: 8

Committee report of inexpedient to legislate is adopted.

HB 571-FN-A, relative to full funding of services to developmentally disabled persons. Public Institutions, Health and Human Services Committee. Vote: 3-2. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 571 would require the Department of Health and Human Services to present a budget that represents what it would require to fully fund the services for developmentally disabled people, both A & B list clients. House Finance removed the appropriation from this bill. This bill recognizes that the number of developmentally disabled people in New Hampshire who are deprived each year of necessary services due to inadequate funding. House Bill 571 requires the department to incorporate the full cost of funding these services in their budget recommendation to the governor. There are currently one hundred and seventy-one individuals with severe developmentally disabled disabilities who are classified as priority A or B on a waiting list. These people and their families need our help. The Public Institutions, Health and Human Services recommend this bill ought to pass.

SENATOR F. KING: Senator Larsen, is the intent of this legislation to require the department to always put in their budget, the full amount? Is that what this bill does?

SENATOR LARSEN: To present in their budget to the governor, the full amount of what it would cost to fund the services.

SENATOR F. KING: Presented to the governor?

SENATOR LARSEN: To the governor.

SENATOR F. KING: Thank you.

SENATOR SQUIRES: We are about to begin, I think, in the next few weeks, a debate on spending for new programs. Something that I suspect is already going on in the Finance Committee. But it is my intention to remind us that older programs and commitments remain partially unaddressed or under funded or both. Notably some of the cuts that have happened in health and human services, and to the point of this debate, HB 571. The issue presented by this bill was, first of all, not legal. It is my understanding, that the statute has already been challenged, as to be it legally necessary to fund all of these services? The answer in 1989 was that it is not. It certainly isn't a political issue. The issue, it seems to me, is the willingness of a government to fulfill their promises be they explicit or implied when social policy changes as it did

with the closing of the Laconia school. This bill forces us to address the issue of public support for adults whose skills and capacity for independence will almost invariably decline without it. So as we move on to new programs, I ask you to remember old programs, and previous commitments, to the citizens and especially to their parents. Thank you.

Adopted.

Ordered to third reading.

HB 592-FN-A-L, establishing an advisory council on brain and spinal cord injuries. Public Institutions, Health and Human Services Committee. Vote: 4-1. Ought to pass with amendment, Senator Squires for the committee.

1997-1306s

01/08

Amendment to HB 592-FN-A-LOCAL

Amend RSA 137-K:2, I(c) as inserted by section 2 of the bill by replacing it with the following:

(c) One senate member, appointed by the senate president.

SENATOR SQUIRES: Mr. President, HB 592 as amended, will establish a Brain and Spinal Cord Advisory Board Council to address brain and spinal cord injuries. This bill is important to me because of a friend in my town who has a brain injury who has been very involved in promoting this legislation. I would just like to pay tribute to him, it is Mr. Paul Van Blarigan. The council will better meet the special needs of these citizens, these individuals were healthy, active people before their accidents and their lives changed dramatically. Unique to this situation, brain and spinal injured patients are treated after the accident, get better, and then released, but then many become welfare recipients because of what they have lost. Thanks to the financial support that they get to take back their lives, many are active, productive citizens again today. It is fiscally responsible to support this bill. Many times the caps for health insurance are quickly exhausted by the individual. This bill will assist the survivors and families of those injured. It is devastating to both. The Public Institutions, Health and Human Services Committee recommend ought to pass with amendment.

SENATOR BLAISDELL: Senator Squires, I just want to be sure, because I am sure that someone has looked at the fiscal impact on the back of the back. I have talked to the chairman of the committee, there is something like \$2.9 million. This just sets up an advisory committee to be able to look into the federal grant programs and then later on down the line, we would be able to look into TAPE INAUDIBLE.

SENATOR SQUIRES: Senator Blaisdell, somewhere here in the bill, it indicates that it will discuss... line 27, "Consider the feasibility of establishing a brain and spinal cord injury trust fund." Then it goes on to say, that it will "consider applying for grants" that would be put into this trust fund.

SENATOR BLAISDELL: Thank you. I thank the chairman and yourself for that information. Thank you.

Amendment adopted.

Ordered to third reading.

HB 51-FN-A, extending the temporary tax rates of the meals and room's tax, communications services tax, and real estate transfer tax through the biennium ending June 30, 1999. Ways and Means Committee. Vote: 4-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: House Bill 51 is an act extending the temporary tax rates of the meals and rooms tax, communications services tax, and real estate transfer tax through the biennium ending June 30, 1999. Failure to pass this bill will result in a revenue shortfall in the 1998 biennium budget of forty-two million dollars. Temporary rates were set in the previous biennium and extensions are in order to keep revenues at their current level. The committee on Ways and Means recommends ought to pass.

SENATOR BARNES: Did your committee give any thought to taking the word "temporary" out of this bill?

SENATOR F. KING: We did not.

SENATOR BARNES: Do you think that in the future that it might be something that could be added. I keep hearing "temporary" and every year that I am here it is "temporary" and I know that it is important for it to be there, so why in the world is the word "temporary" here. Why don't we make it full time?

SENATOR F. KING: This is something that has occurred over many a biennium budget, including the last one. The choice of the words happened before I became a Senator, and I am sure that the Senate in the future might consider your attempt to amend the bill and would welcome it.

SENATOR BARNES: Thank you, Senator. That word was in before Senator Blaisdell got here.

SENATOR BLAISDELL: Yes, it was "temporary," but someday I would like to get rid of them all.

SENATOR HOLLINGWORTH: Senator King, as the chairman of Ways and Means, I know that it is your will as much as many of us that in fact we would like to make sure that that "temporary" is there because many of us feel that someday, as Senator Blaisdell stated, we would like to be able to lower those taxes. Is that not true?

SENATOR F. KING: If you say so, it is true.

SENATOR D. WHEELER: I request that the question be divided into three parts when put before the body. Section I, section II and section III and IV.

SENATOR BARNES: Senator Wheeler, would you explain to me and the rest of the group, what the four sections are? I only see three here, am I missing something?

SENATOR D. WHEELER: Thank you, Senator Barnes. Section IV is merely the effective date of the bill and the reason for asking for the question to be divided, is to make it clear that everybody is in favor or against or giving them the chance to vote for each tax individually so that it is clear whether... and our fellow colleagues might say, "well gee, I don't mind raising this tax, but I wish the other two weren't in this package" and the question would be clear if it is voted on individually, the intention.

SENATOR BARNES: Senator Wheeler, I don't look at this as adding a tax. It is a tax that has been there as we know, that is why the word

"temporary" bothers the heck out of me, but it is not... we are not raising the tax on any of these. I thought that I just heard you say that you wanted it divided so that we could vote on a tax. What tax are we going to vote for? We are just voting, if I am correct, somebody correct me if I am wrong, to keep these taxes which are certainly necessary to keep the state afloat. We are not raising the percentages of any of these taxes, am I correct on that, Senator Wheeler?

SENATOR D. WHEELER: Well, I guess it depends on how you look at it, Senator Barnes, because with this bill, the rooms and meals tax increases \$15.5 million and the communication tax increases \$16.2 million, the real estate transfer tax increases \$10.2 million over what it would be without this bill.

SENATOR BARNES: Thank you, Senator Wheeler.

SENATOR J. KING: Senator Wheeler, would you believe that it is better to leave them all "temporary" or to get rid of them all at the same time, whatever it is that you want to take off. I think that it would be very unfair if it is determined that someone doesn't want this one, but these other two or this other one can be taken off the "temporary" list?

SENATOR D. WHEELER: The issue here is to divide the question so that everyone's intentions are very clear and they can vote their own prerogative.

SENATOR BLAISDELL: Mr. President and members of the Senate, I strongly oppose dividing the question. I do that reluctantly, but I think that we ought to get on record here, and not to divide the question. I ask the Senate not to do it, please.

SENATOR WHIPPLE: Senator Wheeler, when you want to divide the question and I noticed that there is a communication tax in here of sixteen million dollars, if we did away with that communication tax, would you say that it would be fair then to allow the communities to tax poles and wires?

SENATOR D. WHEELER: I hadn't considered that issue before in order to prepare to give you an answer. But it doesn't do away with it, it would lower it to three percent. The tax would still be there.

SENATOR WHIPPLE: Thank you.

SENATOR HOLLINGWORTH: I would like to briefly state that I am a member of Ways and Means and I happened to have heard this bill. While I am sure that many of the people who pay this tax, such as myself, with the rooms and meals, and others that pay their communications tax, many of us would like to not be paying this tax. It was amazing to me at the hearing on Ways and Means, that there was no one there in opposition to this tax, because everyone recognizes that the state of New Hampshire has a deficit this year that we are facing, and that we need to address the deficit and that we need to make sure that our budget is balanced. I think that is why many of the people, while they would certainly like to see these taxes be there, we recognize that we do have a responsibility to pay our bills and this helps us address our deficit.

Senator D. Wheeler moved to divide the question.

Motion failed.

Question is on the committee report of ought to pass.

Adopted.

Question is on the motion of ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, McCarley, Patenaude, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Whipple, D. Wheeler, Francoeur.

Yeas: 20 - Nays: 3

Senator Danais (Rule #42): TAPE INAUDIBLE

Adopted.

Ordered to third reading.

HB 53-FN-A, relative to electronic data submission under the meals and rooms tax. Ways and Means Committee. Vote: 5-0. Ought to pass, Senator Blaisdell for the committee.

TAPE INAUDIBLE

Adopted.

Ordered to third reading.

HB 144-FN, relative to cash incentives paid to servants and agents, excluding commission employees, authorized to sell tickets. Ways and Means Committee. Vote: 5-0. Ought to pass, Senator Danais for the committee.

TAPE INAUDIBLE

Adopted.

Ordered to third reading.

Senator Francoeur in opposition to HB 144-FN.

HB 708, extending the reporting date for the committee studying the issues surrounding the definition of "facility" for the purposes of eligibility for certain property tax exemptions. Ways and Means Committee. Vote: 4-0. Ought to pass, Senator F. King for the committee.

TAPE INAUDIBLE

Adopted.

Ordered to third reading.

HB 781-FN, relative to lucky 7 tickets and bingo games and requiring manufacturers and distributors of bingo supplies to be licensed. Ways and Means Committee. Vote: 4-1. Ought to pass with amendment, Senator Danais for the committee.

1997-1307s

04/08

Amendment to HB 781-FN

Amend the bill by replacing all after section 8 with the following:

9 New Section; Bingo and Lucky 7 Allowed to Continue in Towns or Cities Currently Conducting Such Activities. Amend RSA 287-E by inserting after section 27 the following new section:

287-E:27-a Continuing Bingo and Lucky 7 Where Established. Any city or town currently conducting bingo or lucky 7 shall be allowed to continue such activities until and unless rescinded pursuant to RSA 287-E:27, IV.

10 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

Sections 1-4, 6, and 9 of this bill:

I. Redefine "charitable organization."

II. Require the charitable organization to establish that its charitable purposes are furthered in the town or city where it is organized, as opposed to where the bingo games are being held.

III. Provide that the commission shall license distributors and manufacturers of bingo supplies and equipment, and authorize the commission to assess licensing fees and require licensees to post a bond.

IV. Provide that lucky 7 tickets shall not be sold except in the town or city where the charitable organization has existed for at least 2 years or at a place where a bingo game has been authorized.

V. Provide that any city or town currently conducting bingo or lucky 7 shall be allowed to continue such activities until and unless rescinded pursuant to RSA 287-E:27, IV.

The remainder of this bill amends certain RSA provisions making them gender neutral in accordance with RSA 17-A:6 relative to gender neutral drafting.

This bill is a request of the sweepstakes commission.

TAPE INAUDIBLE

Amendment adopted.

Ordered to third reading.

Senator Gordon in opposition to HB 781-FN.

HB 352, modifying the definitions of "agriculture" and "farming" for certain purposes and adding a definition of "short rotation tree fiber farming." Wildlife and Recreation Committee. Vote: 5-1. Rereferred to committee, Senator D. Wheeler for the committee.

SUBSTITUTE MOTION

Senator D. Wheeler moved to substitute recommit for rereferred.

SENATOR D. WHEELER: House Bill 352 proposes to include "short term rotation tree fiber farming" to the definition of "agriculture and farming." It will also exempt those crops from the yield tax as is similarly done for, let's say, Christmas trees. The Wildlife and Recreation committee had a number of concerns about this piece of legislation relative to clear cutting and relative to how it would affect the current use tax. We feel that we need to look at these issues. We have been asked to recommit the bill. We will try to do it in a short amount of time, but if we can't, we may be back here asking you to rerefer it again. We will give it our best try.

Adopted.

HB 352 is recommitted to the Wildlife and Recreation Committee.

HB 402, relative to the use of revenues of the fish and game department. Wildlife and Recreation Committee. Vote: 6-0. Ought to pass, Senator McCarley for the committee.

SENATOR MCCARLEY: House Bill 402 provides that all revenue generated by permits, licenses or other fees by the Department of Fish and Game be used solely for the purposes of administering Fish and Game programs. There has been concern in recent years that the state is doing a disservice to its sportsmen and women, by using the funds that they have entrusted to the state for non-Fish and Game related items. The sportsmen and women have given their money to the state for the preservation and enhancement of their recreational activities. The Wildlife and Recreation Committee feels that any other use of this money is a violation of that trust. We thereby recommend that this bill be ought to pass.

Adopted.

Ordered to third reading.

HB 671-A, establishing a committee to study the organization, structure, and administration of the department of fish and game, and making an appropriation therefor. Wildlife and Recreation Committee. Vote: 6-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 671 creates a legislative study committee to evaluate all aspects of Fish and Game Department and Commission to learn what areas can be improved upon and also what their current strengths are that other agencies may draw upon. This bill makes a ten thousand dollar appropriation from the Fish and Game Fund for the purposes of hiring an independent consultant to review similar issues from other states. Testimony indicated that this appropriation is only to provide a buffer in the event that the committee needs it and it is possible that they will not utilize these funds as well. The Wildlife and Recreation Committee recommend this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 755-FN, relative to OHRVs and increasing certain OHRV registration fees. Wildlife and Recreation Committee. Vote: 5-1. Ought to pass with amendment, Senator Patenaude for the committee.

1997-1346s
10/01

Amendment to HB 755-FN

Amend RSA 215-A:1, IX as inserted by section 3 of the bill by replacing it with the following:

IX. The commissioner of the department of resources and economic development *and the executive director of the department of fish and game* shall *each* submit an annual report to the chairperson of the wildlife and marine resources committee of the house of representatives and to the chairperson of the ~~[fish and game]~~ *wildlife and recreation* committee of the senate which details ~~[the]~~ *their agency's* performance ~~[of the bureau]~~ *relating to OHRV programs* during the previous year. ~~[This]~~ *Each* report shall be submitted on or before January 15 of each year.

Amend the introductory paragraph of RSA 215-A:23, I and RSA 215-A:23, I(a) as inserted by section 6 of the bill by replacing them with the following:

I. Individual resident registration - \$26 for each 2-wheeled trail bike registration or \$35 for each other OHRV registration upon presentation of resident tax receipt, or a valid New Hampshire driver's license issued to a person 18 years of age or older.

(a) The first \$7 of each 2-wheeled trail bike registration or \$16 of each other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

Amend the introductory paragraph of RSA 215-A:23, III and RSA 215-A:23, III(a) as inserted by section 6 of the bill by replacing them with the following:

III. Individual nonresident registration - \$36 for each 2-wheeled trail bike registration or \$45 for each other OHRV registration.

(a) The first \$13 of each 2-wheeled trail bike registration or \$22 of each other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

SENATOR PATENAUDE: House Bill 755 increases the registration fees for Off Highway Recreational Vehicle Users. Testimony indicated that these fees have not been increased in ten years and that there is presently not enough money within the Bureau of Trails to satisfy the maintenance needs of the state's OHRV trails. There was much concern at the committee's public hearing on this bill over the need to separate the types of OHRV users. The committee amendment speaks to this concern. We specifically distinguished between two-wheeled trail bike users who are unable to benefit from the bureau's work year round, as are other types of riders. For this group, we elected to increase the registration fee by \$3. One-third of this increase will go to the Department of Fish and Game for enforcement purposes with the remainder going to DRED for trail maintenance. We increased the fee for snowmobile and ATV's users by \$12. This represents one dollar for Fish and Game, two dollars to the Bureau of Trails and nine dollars to the Grant and Aid Program. The committee amendment is largely based upon an agreement from all types of OHRV users. Maintenance and grooming make good, safe trails. The Wildlife and Recreation Committee recommend ought to pass with amendment.

SENATOR F. KING: This bill is an important bill for the economy of the regions of the state where snowmobiling, especially, is a major source of revenue and that is the north country. A great deal of the maintenance of these trails is done by volunteers, local snowmobile clubs. It is important that these trails be maintained. The grooming equipment that they use today costs thousands and thousands of dollars. It is important that the trails be safe and it is also important that Fish and Game have additional revenue in order to enforce the rules. You would have to travel north on route 3 or 93 on a Friday afternoon in the winter time to get some realization of the impact on the north country's economy. The snowmobile owners and the snowmobile clubs support this from the north country. I believe that they do statewide. I strongly urge the Senate to adopt this as it is presented.

SENATOR BARNES: Senator Fred King, would you believe, that you might see all of those snowmobiles going up to the north country on Friday afternoon during the winter, but the southern part of the state also benefits greatly from the same activity? When I was fortunate enough to be in business, running some restaurants, we received a tremendous amount of snowmobile business, during the weekends, off of the snowmobile trails. So it is not just the north country that benefits, I believe, that it is the entire state of New Hampshire. Would you believe that?

SENATOR F. KING: I believe that you believe that, and I believe that I believe that.

SENATOR D. WHEELER: I rise in opposition to this bill and I want to point out that this is a 50 percent increase or almost 50 percent increase in the registration fee of OHRVs. We currently have twelve state employees who are out there grooming trails during the winter and maintaining trails. I feel that level of activity should be sustained. It is very important to the north country as Senator King has said and I don't disagree with that. I do rise in opposition to the size of this increase at this time.

SENATOR FRASER: Senator Patenaude, did I understand you to say that all of the interested parties were in agreement to the amended version of this bill?

SENATOR PATENAUDE: The majority of the parties. There were some individuals that were against raising it any amount, but we did work with all groups to make it fair. The answer is yes.

SENATOR D. WHEELER: Senator Patenaude, isn't it true in the UNH survey done on this question, that well over 45 percent of the people questioned, did not support this increase or didn't know whether they wanted this increase of snowmobilers?

SENATOR PATENAUDE: If you say so, Senator, but I received such great amounts of information from the organized clubs from all over the state. In Henniker, we have a new snowmobile club and I would say that almost every member from Warner to Henniker and Hillsborough, called me to tell me how much they wanted to see the fee increased at least ten dollars to the Grant Need Program which we increased it nine because we were concerned about increasing it so much. Even our nonresident registration fees for next year, if this bill passes, will only be forty-three dollars. If you look at our neighbors in Vermont, it is in excess of sixty and in Maine, it is in excess of sixty and Quebec is one hundred and twenty dollars. I think that our fees are reasonable and we have not had an increase in ten years. I believe you.

SENATOR RUSSMAN: I happened to have represented a party that was killed in Canada on a snowmobile and in part, it was due to hitting something on the trail, and I guess that it is clear to me that if there is more money appropriated for maintenance of the trails, we may well see reductions of deaths on our trail system. I think that we owe that to our constituents as well.

Question is on the committee amendment.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, McCarley, Patenaude, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Danaïs, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: D. Wheeler, Francoeur.

Yeas: 22 - Nays: 2

Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator D. Wheeler moved to have **HB 136**, relative to the division of fire standards and training and the fire standards and training commission, taken off the table.

Adopted.

HB 136, relative to the division of fire standards and training and the fire standards and training commission.

SENATOR PATENAUDE: House Bill 136, currently the Division of Fire Standards and Training and the Fire Standards and Training Commission overlap on many administrative tasks. House Bill 136 causes a separation of powers. Under this bill, the Division of Fire and Standards and Training as nominated by the commissioner of safety, shall be responsible for the operation of the Fire Academy, including tuition, instructor training and curriculum. The Fire and Standards and Training Commission will establish minimum education and training standards for employment as a full-time firefighter. The commission shall also act in an advisory capacity to the director of the Division of Fire Standards and Training on various fire related issues. Under HB 136, rules would be jointly adopted by the commission and the commissioner of safety. No one opposed the bill at the hearing and the committee recommends this bill as ought to pass.

SENATOR RUBENS: Senator Patenaude, I have had, not with respect to this bill, but a lot of concerns from local volunteer fire departments in my district about the increasing load of state training requirements, making it therefore difficult for them to attract and recruit volunteers in some of the smaller towns that I represent. Will this bill make their jobs more difficult?

SENATOR PATENAUDE: From my understanding of the testimony, what it is going to do now is that there will be an order of administration to address specific tasks. Before, one hand was doing something that the other hand didn't know or they weren't having public hearings and such. There was a lot of confusion and that was why this bill was brought forth, was to try to make it so that they do work with the towns and their fire departments more efficiently. The answer, I don't believe, will be more of a burden, but less.

SENATOR DANAIS: Senator Rubens, I would respond to your question since I was a co-sponsor of this bill. Would you believe, Senator Rubens, that this bill was designed and submitted to try to assist smaller towns to attract the firefighters because the state's standards were a little unequal. This was designed for that specific reason. Would you believe that?

SENATOR RUBENS: I do and I thank you very much for that reassurance.

Question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

Recess.

Senator Barnes in the Chair.

TAKEN OFF THE TABLE

Senator Larsen moved to have **HB 261**, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations, taken off the table.

Adopted.

HB 261, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations.

SENATOR LARSEN: Several sessions ago, I asked for this bill to be tabled because I had concerns about the language relating to part-time employees. The language that referred to "maternity benefits." I had some concern that the subscriber rates might go up for Blue Cross Blue Shield subscribers in the fact that we were increasing the reserve account language. I have since been assured by the company as well as reviewing the documents, that this language is acceptable and in fact, no rate increase will be required because of the passage of this bill. So I am very comfortable with it coming off of the table.

SENATOR SQUIRES: I too pursued this issue. What this bill does is to allow Blue Cross Blue Shield to have a reserve rate of 20 percent. It does not compel them to go the 20 percent. The reason that it has to be allowed is to bring them into conformity with national Blue Cross Blue Shield standards. I, like Senator Larsen, have been assured that passage of the bill will not have an adverse effect on the ratepayers

Question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

Recess.

Senator Johnson in the Chair.

0001-EBA

05/08

Enrolled Bill Amendment to HB 296

The Committee on Enrolled Bills to which was referred HB 296

AN ACT relative to airways toll moneys and aircraft operating fee revenues.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 296

This enrolled bill amendment clarifies changes being made to an existing statute.

Enrolled Bill Amendment to HB 296

Amend RSA 422:41 as inserted by section 1 of the bill by replacing it with the following:

422:41 Disposition of Revenue. All fees, fines, or other income received under the provisions of this chapter shall be paid by the department to the state treasurer ~~[to be deposited into the general fund]~~ **except as provided in RSA 422:42.**

Senator Barnes moved adoption.

Adopted.

1997-0002-EBA
03/01

Enrolled Bill Amendment to HB 140

The Committee on Enrolled Bills to which was referred HB 140

AN ACT relative to the sale of apples and relative to maple syrup and sap hydrometers and orders issued by the commissioner for noncompliance with the laws regulating maple and honey products.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 140

This enrolled bill amendment corrects an inaccurate reference and corrects the title of the bill.

Enrolled Bill Amendment to HB 140

Amend the title of the bill by replacing it with the following:

AN ACT relative to the sale of apples and relative to maple sap and syrup hydrometers and orders issued by the commissioner of agriculture, markets, and food for noncompliance with the laws regulating maple and honey products.

Amend the bill by replacing paragraph II of section 3 with the following:

II. RSA 429:18, relative to the testing of maple sap and syrup hydrometers.

Senator Barnes moved adoption.

Adopted.

1997-0003-EBA
10/08

Enrolled Bill Amendment to HB 425

The Committee on Enrolled Bills to which was referred HB 425

AN ACT relative to the regulation of pharmacists.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 425

This enrolled bill amendment corrects typographical and grammatical errors.

Enrolled Bill Amendment to HB 425

Amend section 2 of the bill by replacing line 3 with the following:

XIX-a. "TOEFL" is the Test of English as a Foreign Language, as administered by

Senator Barnes moved adoption.

Adopted.

1997-0004-EBA
01/02

Enrolled Bill Amendment to HB 277

The Committee on Enrolled Bills to which was referred HB 277
AN ACT relative to the option to process absentee ballots before closing of polls.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 277

This amendment corrects the title of the bill.

Enrolled Bill Amendment to HB 277

Amend the title of the bill by replacing it with the following:
AN ACT relative to processing absentee ballots.
Senator Barnes moved adoption.

Adopted.

1997-0005-EBA
08/02

Enrolled Bill Amendment to HB 539-LOCAL

The Committee on Enrolled Bills to which was referred HB 539-LOCAL
AN ACT relative to the tax lien process for quarterly tax bills in the city of Concord.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 539-LOCAL

This enrolled bill amendment corrects an incomplete citation in the amending language.

Enrolled Bill Amendment to HB 539-LOCAL

Amend section 1 of the bill by replacing line 2 with the following:
Quarterly Tax Bill. Amend 1994, 203:1 by inserting after paragraph V the following new paragraph:
Senator Barnes moved adoption.

Adopted.

1997-0006-EBA
05/09

Enrolled Bill Amendment to HB 315-LOCAL

The Committee on Enrolled Bills to which was referred HB 315-LOCAL
AN ACT expanding the financial powers of village districts and repealing state law governing the water department of the town of Lisbon to accommodate the transfer of the duties of the board of water commissioners to the board of selectmen adopted by the Lisbon town meeting.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 315-LOCAL

This enrolled bill amendment inserts a missing conjunction.

Enrolled Bill Amendment to HB 315-LOCAL

Amend RSA 31:95-e, I as inserted by section 2 of the bill by replacing line 2 with the following:

board of selectmen *or board of commissioners* to accept gifts of personal property, other than money,

Senator Barnes moved adoption.

Adopted.

1997-0007-EBA

10/01

Enrolled Bill Amendment to HB 650

The Committee on Enrolled Bills to which was referred HB 650

AN ACT relative to limited liability companies.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 650

This amendment corrects various typographical, grammatical, and minor technical errors in the bill.

Enrolled Bill Amendment to HB 650

Amend RSA 304-B:16-a, IX as inserted by section 14 of the bill by replacing line 7 with the following:

foregoing sentence shall be effective at the effective time and date of the merger. The provisions of this

Amend RSA 304-B:16-o, II(b) as inserted by section 14 of the bill by replacing lines 7-8 with the following:

complying with this section following a merger with or conversion of a limited partnership, the limited partner shall commence the proceeding in superior court of the county in this state in which the last

Amend RSA 304-C:17-a, IV(c) as inserted by section 20 of the bill by replacing it with the following:

(c) The certificate required by RSA 421-B:11, II.

Amend RSA 304-C:19, I as inserted by section 22 of the bill by replacing line 4 with the following:

members, then by the consent of more than ½ by number of the members of each class or group

Amend RSA 304-C:22-l as inserted by section 23 of the bill by replacing line 2 with the following:

all costs of the proceeding, including the reasonable compensation and expenses of appraisers

Amend RSA 304-C:22-m as inserted by section 23 of the bill by replacing line 2 with the following:

a copy is delivered to the limited liability company prior to the action described in RSA 304-C:22-g,

Amend RSA 304-C:22-m, II(b) as inserted by section 23 of the bill by replacing lines 4-8 with the following:

the proper allocation. The member shall commence the proceeding in superior court of the county in which the principal office of the limited liability company (or if none, its registered office) is located, or in the case of a surviving foreign limited liability company or other entity that is complying with this section following a merger with or conversion of a limited liability company, the member shall commence the proceeding in superior court of the county in this state in which the last

Amend RSA 304-C:46, V as inserted by section 33 of the bill by replacing line 1 with the following:

V. "Assign" or "assignment" includes a transfer by gift, bequest, devise, or descent and

Senator Barnes moved adoption.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, May 20, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 51-FN-A, extending the temporary tax rates of the meals and rooms tax, communications services tax, and real estate transfer tax through the biennium ending June 30, 1999.

HB 53-FN-A, relative to electronic data submission under the meals and rooms tax.

HB 102-L, relative to school employee background investigations.

HB 136, relative to the division of fire standards and training and the fire standards and training commission.

HB 144-FN, relative to cash incentives paid to servants and agents, excluding commission employees, authorized to sell tickets.

HB 201-L, allowing municipalities to apply the amount of a property tax abatement refund to outstanding taxes owed by the taxpayer.

HB 257, offering priority to qualified veterans for participation in training programs funded by the state or federal government.

HB 261, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations.

HB 262-FN-A-L, establishing a National Information Infrastructure oversight committee.

HB 289-L, authorizing annual school district meetings to be held at multiple locations.

HB 291, relative to the use of the terms "native," "local," and "our own" when referring to farm products.

HB 344, relative to planning board procedures on plats.

HB 399-L, changing the name of the optional property tax exemption for the totally and permanently disabled.

HB 401, repealing the prospective repeal of the healthy kids corporation.

HB 402, relative to the use of revenues of the fish and game department.

HB 501, including blindness in the special education provisions, and allowing attorneys to act as neutrals in special education dispute resolution.

HB 525-L, relative to Braille instruction for functionally blind pupils.

HB 571-FN-A, relative to full funding of services to developmentally disabled persons.

HB 592-FN-A-L, establishing an advisory council on brain and spinal cord injuries.

HB 671-A, establishing a committee to study the organization, structure, and administration of the department of fish and game, and making an appropriation therefor.

HB 708, extending the reporting date for the committee studying the issues surrounding the definition of "facility" for the purposes of eligibility for certain property tax exemptions.

HB 755-FN, relative to OHRVs and increasing certain OHRV registration fees.

HB 781-FN, relative to lucky 7 tickets and bingo games and requiring manufacturers and distributors of bingo supplies to be licensed.

HB 799, regulating the sale of insurance by financial institutions.

Senator J. King moved that the Senate now adjourn until Tuesday, May 20, 1997 at 10:00 a.m.

Adopted.

Adjournment.

May 20, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

Robert Frost said, "Education is the ability to listen to almost anything without losing your temper or your self confidence." You are about to have both of those things tested today - your tempers and your self confidence. As you go into this fun day, just remember that the true product of a good education is not intelligence, but character, and that facts alone will only tell you the "what" of any matter. It is wisdom that will reveal to you the "how" and the "why." So don't just be smart today; be wise as well.

Lord of facts, wisdom and character, as these good people enter with passion into the great kindergarten debate, give them eyes, ears and hearts to look for, listen for and demand from themselves and from each other, not just opinions, postures and politics, but rather fresh wisdom, distilled from somewhere deep within, so that at the end of the day, they and we and the children may have enough places and spaces in which to learn how to learn both about the facts as well as about character. Amen

Senator Podles led the Pledge of Allegiance.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 183-FN, relative to liquor licenses for a sports/entertainment complex.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 183-FN, relative to liquor licenses for a sports/entertainment complex.

Senator F. King moved to non concur and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: F. King, Danais, Blaisdell

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

HB 252, relative to posting of bylaws in advance of any town election. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Lynn Horton
John Root
Nick Hart
Ray Buckley

**SENATE ACCEDES TO HOUSE REQUEST FOR A
COMMITTEE OF CONFERENCE**

HB 252, relative to posting of bylaws in advance of any town election.

Senator Barnes moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Barnes, J. King

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 16, relative to drinking water rules for public water systems.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 16, relative to drinking water rules for public water systems.

Senator Russman moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 19, establishing a committee to study the environmental impact of businesses extracting water from the state's resources for sale.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 19, establishing a committee to study the environmental impact of businesses extracting water from the state's resources for sale.

Senator Russman moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 64-FN-A, exempting motor fuel used for automobile racing from road toll taxation.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 64-FN-A, exempting motor fuel used for automobile racing from road toll taxation.

Senator F. King moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 5, relative to deposits and investments by trustees of town trust funds in credit unions and in mutual funds.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 5, relative to deposits and investments by trustees of town trust funds in credit unions and in mutual funds.

Senator Fraser moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 17, restricting check collection charges by creditors and debt collectors.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 17, restricting check collection charges by creditors and debt collectors.

Senator Fraser moved to concur.

Adopted.

HB 50-FN-A-L, increasing aid for kindergarten programs, and establishing a program for the construction of public kindergarten facilities and making an appropriation therefor.

Split report; Vote: 3-3, Ought to pass with amendment, Senator Rubens for the committee.

Split report; Vote: 3-3, Ought to pass, Senator Larsen for the committee.

1997-1452s

10/02

Amendment to HB 50-FN-A-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT increasing aid for kindergarten programs, establishing a kindergarten scholarship aid program, relative to funding state aid to education and making an appropriation therefor, making an appropriation for postsecondary tuition incentive grants, and providing that catastrophic aid shall be fully funded.

Amend the bill by replacing all after the enacting clause with the following:

1 Subdivision Heading Revised. The subdivision heading preceding RSA 198:15-l is repealed and reenacted to read as follows:

Kindergarten Aid and Kindergarten Scholarship Aid

2 Kindergarten Aid and Kindergarten Scholarship Aid; Eligibility; Administration. RSA 198:15-l - 198:15-p are repealed and reenacted to read as follows:

198:15-l Kindergarten Aid.

I. There is established a kindergarten aid program through which the department of education shall pay financial assistance to those school districts that provide and maintain a district-approved kindergarten program and through which the department shall pay kindergarten scholarship aid to eligible pupils residing in districts that do not provide and maintain a district-approved kindergarten program.

II.(a) For the purposes of this subdivision, district-approved kindergarten programs eligible to receive kindergarten aid shall be approved by the school district legislative body and may include, but not be limited to, singly, or in any combination, public kindergartens established by the district, charter school or open enrollment programs established under RSA 194-B, and contractual arrangements with one or more public or district-approved private, non-sectarian kindergartens located within or outside the boundaries of the district or the state. District legislative bodies may modify or discontinue a district-approved kindergarten program.

(b) The department of education shall rank all municipalities according to each municipality's eligibility for foundation aid per weighted pupil at full foundation aid funding using the most recent available data as provided in RSA 198:27-37. For the purposes of this section, municipality means any city, town, unincorporated town, or unorganized place within the state. Highest ranking municipalities shall be those with highest eligibility for foundation aid per weighted pupil. The department of education shall pay annually to school districts with district-approved kindergarten programs a sum equal to the combined annual entitlement of the district's constituent member municipalities, as follows:

(1) Those municipalities among the first through the twentieth percentiles of eligibility for foundation aid per weighted pupil shall be eligible to receive \$1,000 per resident kindergarten pupil.

(2) Those municipalities among the twenty-first through the fortieth percentiles of eligibility for foundation aid per weighted pupil shall be eligible to receive \$750 per resident kindergarten pupil.

(3) Those municipalities among the forty-first through the hundredth percentiles of eligibility for foundation aid per weighted pupil shall be eligible to receive \$500 per resident kindergarten pupil.

(c)(1) In order to qualify for kindergarten aid, public kindergartens shall meet New Hampshire minimum standards for the approval of schools

(2) A charter school kindergarten shall qualify a pupil's resident district to receive kindergarten aid for such pupil if the resident district has a district-approved kindergarten program.

(3) If a district-approved kindergarten program utilizes more than one school or facility, the school board or the superintendent or other administrative officer designated by the school board may take into consideration parental preference when assigning pupils to schools or facilities in accordance with the provisions of RSA 193:14.

III.(a) Upon application by the pupil's parent or guardian to the department of education, a kindergarten aged pupil residing in a school district without a district-approved kindergarten program and having a family income of less than 200 percent of the current federal poverty level, as determined by the department of education, is eligible to receive kindergarten scholarship aid equal to the lesser of \$1,000 per year, or the actual annual cost of the kindergarten, payable to any public, charter or private, non-sectarian kindergarten selected by the parent or guardian and attended by the pupil.

(b) The selected kindergarten may be located within or outside the geographic boundaries of the pupil's resident district or the state and, if located within the state, shall be approved by at least one New Hampshire school district. The approving school district need not be a scholarship-eligible pupil's resident district.

(c) Kindergarten scholarship aid may be supplemented by parents or guardians or other public or private sources.

IV.(a) Private kindergartens eligible to receive kindergarten scholarship aid payments or enter into or renew contracts with districts as a part of a district-approved kindergarten program shall be approved by the legislative body of the district in which the kindergarten is physically located. Private kindergartens located outside the geographic boundaries of a school district may be approved by the district to receive scholarship payments or to enter into or renew district kindergarten contracts.

(b) The approving school district governing body shall appraise any eligible private kindergarten once every 5 years.

(c) A written summary of each kindergarten appraisal shall be submitted to the school district legislative body and to the department of education prior to the term of a new or renewed contract or new or renewed eligibility to receive kindergarten scholarship aid payments.

(d) Action by the school district legislative body shall be required once every 5 years for a kindergarten to become or remain eligible to receive state kindergarten scholarship aid payments or to enter into or renew district kindergarten contracts.

(e) No private kindergarten shall be compelled to accept scholarship aid payments or to enter into a contract with any school district.

V.(a) Pupil transportation laws pertaining to a district-approved kindergarten program may be waived by action of the school district legislative body.

(b) Pupil transportation laws shall not apply to pupils receiving kindergarten scholarship aid.

VI.(a) Each school district electing to approve more than one kindergarten in a district-approved kindergarten program and any kindergarten eligible and wishing to receive kindergarten scholarship aid shall provide a report to include a brief description of each such kindergarten, including location, curriculum, tuition, pupil capacity, income guidelines, and application process to the department of education.

(b) The department shall publish annually for each school district, by a brief notice in a newspaper of general local circulation, a listing of approved and geographically proximate kindergartens. Each approved kindergarten electing to receive public funds shall publish an annual report pursuant to subparagraph (a), making sufficient copies available to the school district, superintendent, and the public.

198:15-m Eligibility Criteria; Administration.

I. In addition to any other requirements established in this subdivision, in order to be eligible for kindergarten aid payments, a district-approved kindergarten program in accordance with the provisions of RSA 198:15-l, shall be:

(a) Offered immediately preceding the other elementary grades.

(b) Designed primarily for 5-year-olds.

(c) Available at district expense to all kindergarten-aged children who reside in the district.

II. The department of education shall administer the kindergarten and kindergarten scholarship aid programs and shall be responsible for the following:

(a) Providing educational services, including technical assistance and training, to school districts in establishing and maintaining effective district-approved kindergarten programs.

(b) Assisting districts in the development of plans for making kindergarten available to resident pupils.

(c) Providing a suggested kindergarten curriculum, including suggested schedules, teaching materials, furnishings, equipment, facility specifications, staffing and procedures for coordinating the kindergarten with the district's other elementary grades; however, no school district shall be compelled to use or adhere to the state provided suggestions.

(d) Providing suggested means which may be used by the school district governing body to conduct its required initial and periodic appraisals of any district-approved private kindergartens; however, no school district shall be compelled to use or adhere to the state provided suggestions.

(e) Determining the number of eligible kindergarten pupils who reside in a district by collecting kindergarten enrollment data on October 1 of each school year.

(f) Calculating a district's annual kindergarten aid entitlement in accordance with RSA 195:15-l, II for resident pupils who are actually enrolled in a district-approved kindergarten program.

(g) Distributing kindergarten aid payments to districts with an approved kindergarten program on or before January 1 of each state fiscal year.

(h) Distributing kindergarten scholarship aid to eligible kindergartens in accordance with RSA 195:15-l, III on such terms as are mutually agreeable to the department and the kindergarten selected by the pupil's parent or guardian.

(i) Conducting periodic audits of scholarship aid grants to reduce the incidence of error and fraud.

198:15-n Funding Proration. If in any fiscal year the amount appropriated for kindergarten aid programs in accordance with this subdivision is insufficient, payments due shall be prorated proportionally based upon aid entitlements among the eligible school districts and eligible scholarship aid pupils. It shall be the duty of the department of education to request a supplemental appropriation sufficient to pay each district's and each scholarship pupil's full entitlement. If such additional funds are appropriated, the department of education shall promptly pay the remaining balance due each eligible school district and scholarship-eligible kindergarten.

198:15-o Report. On or before September 1, 1998, and biennially thereafter, the commissioner of education shall prepare a report showing the results of the kindergarten aid program established in this subdivision and any other kindergarten incentive programs adopted by the legislature in achieving the purpose of making kindergarten available to all children in New Hampshire. Starting with the report due on or before September 1, 2002, the report shall include recommended steps to be taken to make kindergarten available to children for whom kindergarten is still not available. Reports shall be submitted to the governor and council, state board of education, speaker of the house, president of the senate, and the house and senate education and finance committees.

198:15-p Rulemaking.

I. The state board of education shall adopt rules, under RSA 541-A, relative to the administration of kindergarten aid programs, including eligibility requirements, scholarship aid applications and method of payment for any aid. These rules shall provide that all school districts currently offering a district-approved kindergarten program shall be eligible to receive funds commencing June 30 of each year. The number of kindergarten pupils in attendance in a district-approved kindergarten program shall be determined by the number of kindergarten pupils in attendance in the district program on October 1 of the preceding school year. Any school district implementing a district-approved kindergarten program shall be eligible for these programs. Any kindergarten approved by a district for receipt of kindergarten scholarship aid shall be eligible for these programs.

II. The state board of education shall adopt emergency rules to allow the kindergarten aid program in this subdivision to have effect as of the effective date of this act and pending final rulemaking by the board.

3 Limitation on Kindergarten Aid. Combined state aid to district-approved kindergarten programs and kindergarten scholarships shall not exceed \$8,000,000 per fiscal year in the state fiscal years 1998 and 1999.

4 Catastrophic Aid to be Fully Funded. All moneys necessary to fully fund catastrophic aid payments, in addition to the funding provided for in RSA 186-C:18, shall be appropriated to the state board of education.

5 Appropriation for State Aid to Education. In addition to any otherwise available funding, the sum of \$10,000,000 for the fiscal year ending June 30, 1998 and \$10,000,000 for the fiscal year ending June 30, 1999 are hereby appropriated and shall be deposited in the fund established in RSA 284:21-j for funding state aid to education. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

6 Appropriation for Postsecondary Tuition Incentive Grants. The sum of \$1,700,000 is appropriated to the postsecondary education commission for the biennium ending June 30, 1999 for postsecondary tuition incen-

tive grants. This amount is in addition to any other sums appropriated to the commission. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

7 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill:

I. Increases aid for kindergarten programs and establishes a kindergarten scholarship aid program.

II. Provides that catastrophic aid for education shall be fully funded.

III. Makes an appropriation of \$10,000,000 for each fiscal year of the biennium ending June 30, 1999 for funding state aid to education.

Makes an appropriation of \$1,700,000 for the biennium ending June 30, 1999 for postsecondary tuition incentive grants.

SENATOR LARSEN: Of all of the messages that we have heard from the last election, one message rang loud and clear, that was that the people of the state of New Hampshire support universally available public kindergarten for the children of this state. They believe in our system of public education and want to believe it with kindergarten. I believe that we are making a big mistake if we do not pass the kindergarten plan proposed by governor Shaheen and passed by HB 50. This \$21.5 million kindergarten program approved by the House achieves three important goals. 1) It provides access to public kindergarten to every five-year-old in New Hampshire. 2) It creates an affordable kindergarten program framework that fits the state budget. 3) It provides meaningful classroom construction aide to communities in need of space. The \$36.6 million amendment that will be subsequently proposed and recommended for passage by Senator Rubens is neither fair nor cost effective. It does not achieve the goals of universal kindergarten access. It does not give our five year olds and their families the hope of attending kindergarten regardless of where they live or what they earn. It does not give adequate incentives to communities to offer kindergarten programs. I think that all of us here today, agree that getting kids into kindergarten is a priority for the New Hampshire legislature. For that priority, we are all grateful. As a well-known kindergarten funding source quips, "we have come a long way baby" yet the question remains "how do we get these children into the classrooms?" House Bill 50 as it came to the Senate from the House accomplishes getting kids into the classroom. House Bill 50 as amended by Senator Rubens, does not. I ask you, consider how the thousand dollar voucher program for low income, middle income families will help get the children of the working poor into \$1,500 to \$2,400 private kindergarten programs when no public kindergarten is available in their town? What will guarantee those families that a space will be available in a private kindergarten, when most of those private kindergartens have long waiting lists, and cost perhaps a \$1,000 more than the voucher that they have received? What will they do when the nearest available kindergarten opening is three towns away? Do they really want a means test, these kindergartners and their families in their towns? Do we really want our limited public education monies in out-of-state schools as this amendment proposes? One of the biggest obstacles for many school districts right now, is that they don't have adequate classroom space. They can't afford to build the classrooms. As a result, they don't start kindergarten. We need to pass HB 50 as it came to us from the House, because it adequately addresses, not just the aid per pupil, but most importantly, it provides bonding incentives to get those classrooms built. We know that it costs a district at a minimum of \$1,100 per

pupil to operate an existing kindergarten program, yet what incentive is there for cash strapped school districts to continue offering kindergarten when funds are low, under Senator Rubens plan? House Bill 50 is a fair kindergarten plan. It doesn't discriminate against districts that have been providing kindergarten over the years, and it doesn't discriminate between families of differing income levels. While HB 50, unamended, provides money for public kindergarten, it also allows for districts choosing not to build, but to contract with private providers that meet minimum standards. Without these standards for private kindergartens, first grade teachers will continue to struggle with the huge discrepancies with the learning readiness of six-year-olds, depending on where they attended kindergarten. When you hone the issue down to its core, the real question today is a simple one, do you believe that public kindergarten in New Hampshire should include kindergarten through 12th grade? If you do, then you must choose the only equitable plan before you today for ultimately providing kindergarten to all of New Hampshire's children. House Bill 50 without amendment. I urge you to carefully consider this issue and vote HB 50 ought to pass unamended. Thank you.

SENATOR PIGNATELLI: Senator Larsen, I have been speaking with some people in Hudson, New Hampshire that is the closest town to my district that does not have public kindergarten. I have a couple of questions. They tell me that in their town, sixty-four private kindergartens, right now, located in 18 cities and towns, feed into their public first grade, and my questions are, where are the additional children going to go? Right now parents are driving their children as far away as Manchester and Methuen, how far are parents going to have to drive to see that their children get kindergarten?

SENATOR LARSEN: Those are some of the very serious questions that are unanswered in HB 50 as amended. If you pass HB 50 unamended, those questions will be answered. There will be public kindergarten available and encouraged to be available in the town of Hudson and all of those communities that don't currently offer kindergarten. That is why HB 50 is important to be passed unamended.

SENATOR J. KING: In HB 50, they include catastrophic aid. I understand that catastrophic aid is already included in the regular budget, so could you tell me why catastrophic aid, all of a sudden, is in two and what is it doing in the other budget and HB 50?

SENATOR LARSEN: I have no idea, having sat through the education hearing to know why catastrophic aid is in there, because it is in fact, a feature of the budget as passed by the Finance Committee, I see the Finance Committee chairman nodding his head, it is unnecessary language. We know that catastrophic aid is proposed to be funded by the House-passed version and that proposed by the governor, therefore this language is unnecessary.

SENATOR J. KING: By the way, is it budgeted in the regular budget and also in HB 50?

SENATOR LARSEN: It is not budgeted in the amended HB 50. It is budgeted and money is provided in the state budget as Finance has approved it thus far.

SENATOR J. KING: Does that mean that eventually, when and if they give us what the budget is for HB 50, Senate version, some of the Senate version, does that mean that they will have the cost listed in there and also in the regular budget?

SENATOR LARSEN: The cost of the amended version to HB 50 is approximately \$36.6 million. We did not have a full discussion on why that cost is so much higher than the governor's cost, so I do not know if catastrophic aid monies are added into that fiscal note. As I say, it is funded in the budget, therefore, the language is unnecessary. The amended version is a costly program that does not bring universal kindergarten.

SENATOR FRANCOEUR: Senator Larsen, since you mentioned Hudson having sixty-four programs that people send their children to, do you not believe that also there are certain businesses that provide daycare, plus kindergarten, that even if we do implement this, that they may not go to it anyway? Also, there are statistics that you may enlighten us with today that shows that daycare, if we implement a half-day program, is going to not create more burdens on the individuals from having to transport the kids to kindergartens and set up additional problems for the families also as far as worrying about where the kids are going to be and what am I going to do with them the other half of the day and so on?

SENATOR LARSEN: We currently have a system in those schools that offer public kindergarten that the public kindergarten system is half-day. Many parents deal with this and the daycare systems in those communities that offer public kindergarten are prepared to receive the half day kindergartners for the additional half of their day. That operates in many cities, that operates right here in Concord, that daycare centers pick up children or they are delivered by their parents and they continue to receive the daycare end of their day, but what public kindergarten provides, what standardized state authorized kindergarten provides, is a system by which the children come prepared to be first graders with the adequate information in a form that they are ready to learn at an equal level. We have heard from many, many, first grade teachers that that is the problem with having so many different kindergarten programs. The current bill, under HB 50 allows for private kindergartens to continue for school districts to contract with them. Hudson would be able to contract with as many kindergarten private providers as they saw fit. That is a system that is in HB 50 as unamended. So it is addressed. From what I understand of private kindergarten providers, is that those who choose not to operate a kindergarten, have more than enough demand for three and four-year-olds services, so that they will not see a loss of business; however, they will move their programs down to the needed three and four-year-old programs that so many parents need for their children today. So it, in fact, opens up slots for three and four-year-olds.

SENATOR RUBENS: Arguing for the other committee report which a vote of 3 to 3 in favor of the Senate plan for the family education improvement plan which appears on page six of your calendar. The advantages of the Senate plan is that we get more kids into kindergarten faster at about two-thirds the cost of the governor's plan. It is fairer and more equitable because the aid is concentrated to the towns that have a greater difficulty funding kindergarten and kindergarten buildings. There is a great deal more local control and flexibility. There is more aid dollars. It is interest to see a republican plan being criticized for being... also it makes me smirk a little bit... a republican plan for granting more state aid to local education. Correcting a couple of points during the kindergarten debate, there are eleven states that include New Hampshire that neither mandate kindergarten nor children to attend kindergarten. We are not the only state that does not have a mandate. It is very im-

portant to know that. According to our own state department of education, 89 percent of the kids in the state attend kindergarten, either public or private. Forty percent in New Hampshire of the kids attending kindergarten attend private kindergarten. Amazingly the average attendance rate in New Hampshire is equal to the average attendance rate in the other states. This is data that comes from the education commission of the states, a non partisan education research group. So the policy goal of kindergarten access improvement is not to catch up with other states, it is to become better than other states, to improve access beyond the average of other states. I don't think that New Hampshire should feel embarrassed about what it has now. We should bring our attendance rate up above other states' average and should increase quality. The governor's plan for kindergarten depends to a very large extent, as admitted, on the prospect of free buildings. There is a thirty million dollar bonding program to pay for those free buildings. They are paid for 100 percent at the expense of the state. The governor testified that the cost of providing free buildings for all of the districts who don't have kindergarten is \$18 million. The difference between the \$18 million and the thirty million dollars is the cost that I think is anticipated in the governor's plan to shut down private kindergartens and replace them with public kindergartens. Now that is a valid policy goal; it is subject to debate, but, however, I don't think that it is consistent at all with the way that we do things in New Hampshire, particularly beginning with the fact that there is a preference in the state for private kindergartens that are smaller and more localized to where parents live. A policy goal to simply close down buildings that are private kindergartens and replace them with 100 percent state aid funded buildings is not sound fiscal policy. The problem with the bonding and free building feature of the governor's plan when you actually listen to testimony and the advice of the districts that do not now have kindergarten, is that they are frightened off by the provision, the lock-in provision of the bonding feature which people haven't talked about. If the district takes the 100 percent state aid money for free public kindergartens if they discontinue a kindergarten within 20 years, they must pay back the state, the entire amount. That is one generation. They must pay back the state the entire amount of that free building. That does frighten some districts. Additionally, some districts have consulted with the local political chemistry and they have found that even with the governor's incentives, they will still not start public kindergarten in those districts. So as proffered by Senator Larsen, we will not achieve the goal of 100 percent of universal access to public kindergarten, that will not happen. On the bonding issue, we have concerns with the risk to the state rating. We have a nice high bond rating right now. The fact that capital expenditures at the state level have other uses right now, for example, local clean water projects and others that could possibly be shunted aside. The problem with giving out free anything at state expense, free building will lead to over building, over lavished buildings which don't serve the needs of children but perhaps serve the needs of construction companies. I don't think that is a valid policy goal. Finally, there is considerable jealousy and anger over the fact that many towns, particularly in the north country, that have gone ahead and they have bitten the bullet and they have built buildings to a considerable extent, at local taxpayer expense. Now all of a sudden, rich towns are being given free buildings fully paid at the state expense, causing potentially less building aid money to be available TAPE INAUDIBLE not good state policy. Finally, the total cost

of the governor's plan is about \$12 million per year when you include the estimated cost of the interest on the bonds. The Senate plan is \$18.9 million a year. The Senate plan, I should point out to you, that it very, very closely matches consensus arrived at in the Senate Education Committee on SB 204 which died on the table about three weeks ago. The only difference between SB 202 which was supported by both republicans and democrats on the Senate Education Committee, a month and a half ago, is that there is a scholarship feature for kids for whom there is no public kindergarten available in their district. Anyone carefully scrutinizing either plan must come to conclusion that there will be districts that will not start public kindergarten programs; therefore, shutting out, freezing out kids and therefore, avoiding and not reaching the goal of universal access. The Senate plan spends \$8 million a year, capped, on kindergarten, that is about two-thirds of the cost of the governor's plan. We get more kids into kindergarten faster, again at lower costs. Of the savings, there is about \$4 million per year in savings from the Senate plan on the kindergarten portion. That, the senate, again, concurring with the bipartisan consensus reached in the Senate Education Committee, plows that back into Augenblick so-called, "foundation aid funding." The net result of that \$10 million increase is the increase in local flexibility and local control over spending decisions, whether it be buildings or otherwise. Finally, the Senate plan is means tested and by virtue of the addition of the Augenblick money about two-thirds of the towns receive more funding. Property-poor towns such as Rochester, Dover, Claremont, Newport, Berlin, Manchester and even Hudson get more money in general, about twice as much money as under the governor's plan making it easier for the towns that have a more difficult time doing it. For kids not given access to kindergarten programs, a scholarship of one thousand dollars is granted. That scholarship is eligible to be spent on private or public kindergartens approved by the local school district voters. It is fallacious and it is wrong to state there are no standards in these private kindergartens. The state Department of Education under the Senate plan is compelled to create and establish a template for the private kindergartens which include many features, including curriculum and most importantly to this debate, including methods of coordinating the curriculum in the kindergartens, private or public with the available offerings in first, second and third grades in the public schools. A very important feature. The state Department of Education creates a template, the local school district measures each proposed private kindergarten that it wishes to put on the agenda against that template and makes the recommendation to the local school district voters who in the end, local school district voters are empowered to say yes or no, up or down whether each and every private kindergarten shall be allowed in the mix both for contracts with districts that have universal kindergarten programs and for scholarship eligible students. Finally, the problem with the governor's plan, with respect to private kindergartens is that by making them identical to public kindergartens, about doubles their costs. This would freeze out access to people who now prefer them. The Senate plan also includes \$850,000 a year scholarship, higher education scholarship aid, means tested for low income families, which are allowed to be used, including out-of-state institutions for higher learning, precisely mirror image of the scholarship program for kindergarten. There is no difference whatsoever except the age of the children being entitled to receive that funding. That provision is fully supported by every democrat that I know of, and was also a bipartisan

consensus on the Senate Education Committee in SB 204. We fully fund catastrophic aide, despite the fact that it appears in the budget of both the House and the Senate at this point, is an expression of legislative intent. It is not redundant. I think it is useful. Finally, the budget for the Senate plan is included in the budget to be proffered by the Finance Committee. This is identical to the governor's plan, both our budgetary items, neither have dedicated funds. Thank you very much.

SENATOR F. KING: Senator Rubens, I, like all of the senators have been following the kindergarten discussion and one of the things that seems to be absent from the discussion is the understanding that this Senate, two years ago, with almost 100 percent bipartisan support, funded a kindergarten plan. Isn't it a fact, that both of the two programs that we are going to be discussing today are not new programs, but are an enhancement of that decision that was made two years ago? Isn't it a fact that before the end of June, \$4.2 million will be going to the school districts in the state as a result of the action that this Senate with bipartisan support passed two years ago?

SENATOR RUBENS: That is quite true. We are standing on the shoulders of the 1995-1996 legislature.

SENATOR BLAISDELL: Senator Rubens, I kept track. You said 12 times, "The Senate plan." I just wondered if you were counting nine of us on the other side that may be supporting Governor Shaheen's plan? I mean we are still members of this Senate. Perhaps you could hold off saying "Senate plan" for another 20 minutes or so until you perhaps get the votes to be able to do that? I have a couple of other questions. You mentioned that the Senate plan right now, has your plan in there. Well, I am not so sure about that, just yet. Do you have some information that I don't know about?

SENATOR RUBENS: A plan?

SENATOR BLAISDELL: Yes, a plan.

SENATOR RUBENS: A funding plan?

SENATOR BLAISDELL: Yes, a funding plan, cuts and things like that. Do you know about that at all?

SENATOR RUBENS: I had a discussion this morning with Senator King.

SENATOR BLAISDELL: Oh you did. John King?

SENATOR RUBENS: Fred King.

SENATOR BLAISDELL: Oh, Fred King. Okay. The last question. Is it my understanding, Senator Rubens, that...

SENATOR RUBENS: Senator Fred King... tell me if I am wrong, told me that the cost of the program is inserted into the budget as shortly to be proposed by the Finance Committee.

SENATOR BLAISDELL: Well far be it for me to argue about Senator Fred King, because we are the only ones talking to each other right now.

SENATOR F. KING: That was before lunch.

SENATOR RUBENS: I don't want to get between the two of you...

SENATOR BLAISDELL: I think that after a few more minutes, I may be alone. Is it my understanding, Senator Rubens, that a little while ago, we had an Augenblick bill come before the Senate and was it you that tabled it as chairman of the Education?

SENATOR RUBENS: No. It was the entire Senate that tabled it. The problem with that bill is that it required an extra sixty million dollars in funding and I don't think that anyone proposed a means in which we could come up with sixty million dollars.

SENATOR BLAISDELL: I did.

SENATOR RUBENS: It wasn't debated on the floor.

SENATOR BLAISDELL: I am the race track senator. Remember I did say that. I did say that I would fund it, but the last question.

SENATOR RUBENS: I would like to answer your question. The Senate plan, if I might use that once more, and not use it again for the next 20 minutes, is a more modest increase in foundation aid funding of \$10 million. We feel that can be found within the present means of the state.

SENATOR BLAISDELL: You feel that \$10 million in the Augenblick can be sent back to cities and towns, can be found within this budget?

SENATOR RUBENS: Correct.

SENATOR BLAISDELL: Well, I invite you this afternoon about four or five o'clock to come down and show me some cuts, Senator Rubens, that I can put into the plan. We have a plan. We are covering everything. We won't really know until the cigarette tax is passed and we really won't know until this bill is passed. So I invite you to spend some time with us this afternoon and tonight to show me where you would like to cut, whether it be the courts or anybody else. To be able to send that \$10 million back to the cities and towns and then probably it will cost them a little bit more than that \$10 million, when you really come right down to it. I will be willing to see it.

SENATOR LARSEN: Senator Rubens, isn't it a fact that Senator Fred King recently mentioned the Committee of Conference that created the five hundred dollars per pupil law that we currently have in existence. I served on that Conference Committee and isn't it a fact, that during the course of that Conference Committee, we had a full discussion on whether to provide vouchers or scholarship aide or whatever we are calling it today, whether to provide that system to parents and to whether or not it would provide kindergarten for our children? The Committee of Conference two years ago, rejected that notion saying that the better way to approach it is, in fact, what we have in law now. What is in HB 50 unamended that says that the way to provide kindergarten is to allow for school districts to contract as a whole school district, to provide the necessary spaces for children to attend private kindergartens and that is the only way that we get spaces available to children on a needed basis. That is the only way that we can guarantee that the children who are attending private kindergarten are meeting the minimal state standard that prepares them for readiness for first grade? I know that you weren't in that Committee of Conference, but I think that you might be aware of that discussion that took place. I am not sure why we have the whole issue back again when the legislature two years ago, rejected the notion.

SENATOR RUBENS: Because some districts will not start public kindergarten programs. We have testimony to that effect, even with the governor's program. Even with the free buildings. It is simply not started. I think that the consensus has moved beyond where it was two years ago, that is what we are building on, where we were two years ago, and we desire to get kids who now do not have access to kindergarten, and whose

districts do not offer kindergarten, we want to give them access to the extent that their families can't afford it. That is what this bill does. Another thing that I should correct is there is under present statute, a 20 percent aid incentive, a boost incentive for kindergarten building construction that expires in the year 2000. That allows districts, at state expense, 50 to 75 percent of the cost of kindergarten. So we do have, I think that it is not correct to say that the state is not helping districts that want to build a public kindergarten buildings. It is simply not the case. So again, we are trying to build on where we were two years ago. Consensus has moved forward. We want to get to the extent to which we have kids in kindergarten in this state, above the average of the other states. I think that we can do that. Finally, if we go with the governor's plan, we will end up by virtue of the state, state standards, some of which have no relationship of quality and we will end up doubling the cost of the private kindergartens and that will make them less affordable to local districts and voters and it will make them less affordable to other families who may choose outside of district programs to send their children to those kindergartens. I don't think that is a wise thing to do.

SENATOR LARSEN: Would you believe that I think that the best way to make universally available kindergarten is to provide adequate incentives for school districts to get into the business? Also, I think that the HB 50 unamended does that?

SENATOR RUBENS: That is why the senate plan provides more aid. More raw, dollar aid to about two-thirds of the towns in the state and to the towns that have the greatest difficulty funding kindergarten, it provides about twice as much money as the governor's plan.

SENATOR MCCARLEY: Senator King, I believe that you indicated that the state will, sometime in the next month or so, be issuing checks for about \$4.2 million to fund the program that was voted on last year. Is that correct?

SENATOR F. KING: That is what I said, yes.

SENATOR MCCARLEY: Is it my understanding, however, that actually we are running a deficit budget, so while indeed we are going to honor that commitment, it is not currently able to cover by dollars because we are currently running in the red? So we are going to honor the commitment, but actually the dollars aren't there to honor that commitment?

SENATOR F. KING: We are going to honor the commitment and the deficit is no longer \$37 million in 1997 as we have heard so much in the paper about, it is probably going to be more like \$12 million that includes that \$4.2 million to be going out. That deficit, we hope, if we have good luck today, well be down, too, to take care of that problem. So we are going to meet our commitments to the towns like we intended to, and it is unfortunate that we have a small deficit at the end of 1997, it is much better than what was originally projected back in January by the administration. We are going to keep our word. We are going to take care of the deficit and I think that you are right to be concerned about that.

SENATOR MCCARLEY: Thank you.

SENATOR PODLES: Senator Rubens, do you believe that adding the governor's kindergarten plan will find the locals operational costs above and beyond the dole of one thousand dollars per student, and as a result, it will raise the property taxes significantly? Would you also comment on it?

SENATOR RUBENS: Briefly. Yes indeed, any district picking up a kindergarten through the governor's proposal will end up increasing property taxes.

SENATOR PODLES: So that the one thousand dollars per student will not be sufficient for the locals?

SENATOR RUBENS: No, it will not. It should also be pointed out in response to your question that the governor's plan, if all districts start kindergarten, the grant is not one thousand dollars per student. It is just slightly over six hundred dollars per student with the cap and proration formula is put into place. That is the governor's program as proposed to the sum of \$10.5 million, one thousand dollars per student funding. If the amount provided by the governor's proposal is passed by the House, involves districts starting kindergarten, the grant will be \$340 per student if all districts started public kindergarten. It is important to know that the local taxpayers are exposed to considerable risks that is one of the reasons that causes all districts not wanting to adopt the program.

SENATOR PODLES: Thank you.

SENATOR COHEN: Senator Rubens, I have a two-part question about the Rubens Plan. We do not have a Senate plan as of yet, so I have a two-part question about the Rubens Plan. In a state that is already the lowest in the nation, in terms of state-aid to public education, why are we giving away state dollars in a form of vouchers to parents to use for out-of-state private kindergartens? The second part of the question is, these other providers, these private providers, may not meet our educational standards. They may not meet state standards, nor requirement for that. Do you feel comfortable in building the pressure for non traditional, non local, private vendors to come in? Do you really feel comfortable in creating a Wal-Mart, a Rite-Aid scenario in education? Is that what we want to do?

SENATOR RUBENS: First of all, the governor's plan as passed by the House, includes provision for out-of-state kindergartens to be included in the mix and in concert with other Senators here, decided to pick up that provision. Again, it increases flexibility. I have a town, Hanover, we live right on the border. Students, a very large extent of the population of students crosses the border to find both public and private high schools and there is a lot of mix. We have a state with three other states adjacent to us and if, again, the goal is to get kids access to kindergarten as quickly as possible, relieve the capacity constraint. If there is a quality kindergarten that meets the needs of a parent, that meets the needs of local district voters that might be a mile over the border in another state, is it better to deny that child kindergarten or as the House and Senate proposals do, grant that child access to kindergarten. As for the standards, I have already mentioned that the local district voters are required to approve each private kindergarten after reviewing a recommendation of the local school board as to the extent to which that private kindergarten, each and every one, meets the standards recommended by the state Department of Education with respect to curricular and quality. It is just that, again, if we are looking to increase the speed at which, and the economy by which, students get access to kindergarten, I don't think that we should foreclose options of local voters. Would you prefer to have the state setting standards that prevent kid's from getting into kindergarten or would you rather have local voters allowing kid's access to kindergarten?

SENATOR COHEN: I would prefer to continue to have the state set standards and have the local communities decide how they want to implement those standards and if they want to exceed those standards. I am concerned, would you believe, that I am concerned about the standards, about the commitment to education, about the fact that the business community in the state of New Hampshire has said very, very clearly that we need to fund kindergarten for all? I really am concerned about the future if we don't invest properly in quality kindergarten. So I am very concerned about the Rubens bill at this point. Thank you.

SENATOR J. KING: Senator Rubens, a short while ago I thought that I heard you say that it came out of committee, the Augenblick Formula bill, I forget what the number is, as inexpedient to legislate. Is that what you said?

SENATOR RUBENS: The \$60 million Augenblick funding that came out with the ITL recommendation?

SENATOR J. KING: Yes, you said 7 - 0.

SENATOR RUBENS: I don't recall what the vote was.

SENATOR J. KING: You said, "Unanimous."

SENATOR RUBENS: I don't recall what the vote was.

SENATOR J. KING: Well, I just want to make sure that the record is straight. The vote was 4 - 3 out of committee. The three that voted to keep it in there, the Augenblick Formula, were the three democrats. We came in here and it was tabled. So would you believe, that it surprises me where you voted a week before that you didn't want the Augenblick and you tabled it, you could have said there that maybe we can cut it down \$10 million or \$5 million or whatever you want? You didn't want the Augenblick. Now we find out to our surprise, that it is included in this bill. Would you believe that?

SENATOR RUBENS: Senator King, as you know, that program which has a sixty million dollar price tag, was unaffordable and unachievable, at least some of us thought that, that is why it came out in a split vote, but SB 204 which included, which was supported by a bipartisan consensus of the Senate Education Committee, included \$10 million in added Augenblick money, added into a kindergarten program almost identical to the Senate plan that you see here other than the scholarship portion of the program. That was supported by a bipartisan consensus. The reason is that the \$10 million figure was achievable, and it is realistic to find funding for that. The \$60 million number was infeasible.

SENATOR J. KING: I am confused now. Where was the \$10 million we passed?

SENATOR RUBENS: In SB 204 that came out of committee with a bipartisan support consensus and it went on the table here and it died on the table.

SENATOR J. KING: So they both died on the table?

SENATOR RUBENS: They both died on the table.

SENATOR J. KING: So you are coming back with something that has already killed by this body?

SENATOR RUBENS: Wrong again because it reflected... the approach embodied in the Senate Plan here for kindergarten embodies bipartisan consensus other than the scholarship feature, bipartisan consensus of the members of the Senate Education Committee just barely two months ago.

SENATOR PIGNATELLI: Senator Rubens, I have a couple of questions about your vouchers. The vouchers in your plan, if that is all right? Senator Rubens, how does it fare having kindergarten only available to five-year-olds whose families can afford to make up the difference between your one thousand dollar voucher and the true cost of private kindergartens, which I am told is somewhere between \$1,500 and upwards of \$2,500?

SENATOR RUBENS: The Senate plan allows for local school districts or other parties to supplement those scholarships should that be necessary or desirable. Secondly, this feature is identical to the grants that we give. It also, in the Senate plan here, gives for higher education assistance, clearly the amount of grants for scholarship to higher education, simply don't make up the entire costs, families are required to come up with the additional amount through supplemental scholarships or from their own resources. Identical structure to the scholarships for higher education. Absolutely identical. I can't see how you can criticize one and not criticize another or support one and not support the other.

SENATOR PIGNATELLI: Also about vouchers. What are we saying to low income, two parent families who are both working when they learn that their children still can't go to kindergarten because they cannot afford it, but their neighbor who qualifies under your voucher program, receives a voucher? Isn't that a disincentive to families to keep working when their neighbor gets a one thousand dollar voucher and they don't qualify even though they are busting their rear ends trying to earn a living?

SENATOR RUBENS: I honestly don't think families are going to reduce their own income to get a one thousand dollar scholarship for kindergarten. I have heard arguments criticizing that threshold, the 200 percent of federal poverty level, but I have not heard those criticizing recommend increasing the income eligibility standards in order to make it more widespread, the scholarship eligibility. I have not heard that.

SENATOR PIGNATELLI: And your answer, if I may, to the fairness issue?

SENATOR RUBENS: Goal here, bottom line goal is to get more access to kids to kindergarten. There are going to be districts, when you really look, when you consult with yourself privately, that are not going to enable the governor's program, nor the Senate portion of the public program. What we are doing is allowing kids who are low income, in districts that don't have access to kindergarten, we are allowing them access to kindergarten. By the way, private kindergarten costs as little as \$1,000 to \$1,200 per year, some go up to \$2,500 a year. I am certain that the private sector of organizers of private kindergartens will make room for families that are newly capable of accessing kindergarten. That is the point, to get kids into kindergarten as approved by local district voters. I don't see how you can be against that.

SENATOR J. KING: Senator Rubens, after listening to the last conversation, I have a question relative to what we are trying to do. Are we trying to have a public school system that has kindergarten through 12 or are we trying to do something else?

SENATOR RUBENS: We are trying to have a system of public education that is the highest possible level of quality, that provides access to all kids including far, far more, the people who are kindergarten age in the state.

SENATOR J. KING: So what you are doing is the same as our first grade and our second and third grade, that kindergarten is going to be treated in the same manner relative to the rules and regulations that follow from grade one through grade 12 by the state Department of Education?

SENATOR RUBENS: Should the local school district voters wish to allow only kindergarten to follow those rules, for example, requiring only certified teachers to teach at those kindergartens, then the local district voters can so compel. I guess the question becomes, in my mind, in your mind, do you trust local voters to make wise decisions on behalf of the children living in their district?

SENATOR J. KING: My feeling is that I want to make sure that the public school system is our prime aim, and that stays intact, and we not become all of these other things. If we are going to have a kindergarten, it should be spelled out the same way as the other grades and it should be part of the system, if it is possible if they can afford it or whatever it may be, but it should come under the same rules and regulations as the others. I question whether this does.

SENATOR HOLLINGWORTH: Fellow members of the Senate, I didn't decide to speak until three o'clock this morning while I was lying in bed thinking about this. My husband said to me, "You know, you can't change minds." I told him that I wasn't trying to change minds, I just want to appeal to the senators that I care about the future education and kindergarten of our children. I have to say that I will probably be chastised for this, but, I feel that this is an issue that is more political than it is issue oriented. Senator Ruben's bill has not received the approval of the voters of this state, Governor Shaheen's has. She went out and voted and she campaigned on public kindergarten. Public kindergarten for all of our children. I campaigned on public kindergarten. Not once in all of my ten towns that I visited, not once, did anybody ask me for vouchers. I am sure that question might have come up to some of you, but not once was it asked of me. I think that it is hypocritical of us in the last couple of weeks, this Senate voted that all teachers in the state of New Hampshire had to pass a standard, not in one curriculum that they taught, but in three, and yet we are not making any standards for those in the voucher system. We also said that we need to make sure that all of the children graduating had to pass a test. We are not requiring any tests for those in the voucher system to go into first grade. We are not making any standards that those people who are employed in the voucher schools will have had a criminal check, that they are not rapists or abusers. We passed a law in this Senate that said that every single person working in public schools would have to have a criminal check whether they were a crossing guard or whether they worked in the cafeteria or whether they were the janitor, yet we make no standards for those in the voucher schools. We make no requirements what their curriculum is. They are saying that it will be approved by the school board, yet the school board, Mrs. Twoney said that she opposed the voucher system, the Rubens plan. We believe in the Board of Education. We trust them. We trust them with our children. They told us that this Rubens Plan was not to their liking. I am disturbed because I care about what happens to those children in that classroom. I care that they are going to get equal education. A quality education going into first grade and why do we need to ensure that? Because this is a once in a lifetime chance, senators. I have waited a lifetime to be able to say to the voters of my district, practically, it has been 16 years, to be able to give them what they want, public education

for all of their children. This is your opportunity. You will never get this opportunity again. Here today, while the voters have said that they want public kindergarten. The goal is to have public kindergarten. We have checks and balances in the governors' proposal. We are going to vote on something that has not received the vote of the public. I am appealing to your hearts to do what I know that many of you in this room believe that public is the education and public kindergarten is what we should be voting on today. I am concerned because I know that many of you will regret your actions. You would not send your grandchildren to a school that had no curriculum, that you could have oversight. It only takes one school district to pass it and to say that kindergarten qualifies for our district and then that kindergarten voucher system kindergarten can teach in the entire state without your board ruling on it. They can have a curriculum that says that the Hale Bopp TAPE INAUDIBLE is absolutely no curriculum established there. Please, senators, remember this opportunity is in your hands. It is in each and every one of your abilities to make a difference to the children of the state of New Hampshire and to the future of the state of New Hampshire. I appeal to you to use your vote and not to allow someone else to direct that vote.

SENATOR MCCARLEY: In looking around the room, I can see that while not looking at watches, people are sort of looking to the heavens and wondering when this part of it will end. But I guess that I do have to speak. As many of you are going to guess, I do support HB 50. We have heard testimony and discussion today from people who are in districts where there is public kindergarten. There is not in my district. One of the largest districts in the state. In two of the other towns that I represent, there is no public kindergarten. I can guarantee you based not just on the very lengthy testimony at the public hearing, but personally, that the building aid is a critical part of this bill. Absolutely critical. It simply provides the incentive that will allow locals to make their decision, but it is critical. I would argue that we have seen this in the past with our vocational centers and the Department of Education is more than capable of riding herd over local districts coming in with these wild grandiose plans for kindergarten space. I think that is a specious argument for anyone who has been around the way that the vocational building program went. That is not how it works. The Department of Education will have specific standards and has to approve every one of those kindergarten plans. It is in their best interest to watch over those state dollars for building aid and I know that they will. I think also that as people have said, as the commitment to universal kindergarten is what voters said that they wanted. I don't think that public kindergarten should have anything to do with how much money a family makes or how close any family is to 200 percent of the poverty level. Public kindergarten with state standards that are in line with the curriculum for grades one through twelve, will provide the kind of consistency in curriculum that is missing in those districts that do not currently offer kindergarten. Again, I know, because Rochester does not have public kindergarten and our first grade teachers spend too many months getting their students all working in the same direction. Those are wasted months that should be used moving forward not simply catching up. It has been said that there are basic fundamental philosophical differences between the governor's plan and the amended version. I would agree. The governor's plan is about universal public kindergarten for all of our children and the incentives needed to make that a reality. Simple and to the point. The amendment is not about public kindergarten. In those

districts that do not have public kindergarten, it is about pitting local school boards against the providers of private kindergarten. It is about using public dollars for private programs that require no accountability and will leave citizens wondering about the private program they have chosen for their children and whether local school board approval should mean anything. It is about letting parents take public dollars and spend them on education in other states. It is about all sorts of things that have nothing to do with public kindergarten, but sure do sound good politically. In short, it is not about New Hampshire's commitment to public kindergarten. Mr. President, if it is appropriate at this time, I would like to move ought to pass on HB 50.

Senator F. King moved the question.

Adopted.

Question is on the committee amendment.

Recess.

Out of recess.

A roll call was requested by Senator Larsen.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, Squires, Podles, Barnes, Russman, Danais, Delahunty.

The following Senators voted No: McCarley, Whipple, Blaisdell, D. Wheeler, Pignatelli, Francoeur, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 13 - Nays: 11

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SUSPENSION OF THE RULES

Senator Barnes moved that the Rules of the Senate be so far suspended as to allow committee reports not previously advertised in the Senate Calendar for today's floor action.

A 2/3 vote is necessary.

Adopted by the necessary 2/3 vote.

HB 564, increasing the cigarette tax. Finance Committee. Ought to pass with amendment. Senator Barnes for the committee.

1997-1484s

08/01

Amendment to HB 564-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Definition of "Tobacco Products" for Purposes of Tobacco Tax. Amend RSA 78:1, XIV to read as follows:

XIV. "Tobacco products" means cigarettes [and], *cigars, snuff, smokeless tobacco, products containing tobacco, and tobacco in any other form.*

2 Cigarette Tax. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [25] 37 cents for each package containing 20 cigarettes or

at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

3 Applicability. This act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 1997, shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

4 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill increases the cigarette tax by 12 cents.

SENATOR BARNES: I am reporting out HB 564 out of the Finance Committee as amended with a 12 cent increase in the cigarette tax. The Finance Committee recommends ought to pass with amendment. The committee felt that the 12 cents of the cigarette tax would be enough money to fund kindergarten proposal that is going down to Finance a little later this morning. It was already voted on a few minutes ago and it was voted ought to pass. We also feel that the 12 cent increase in the cigarette tax will more than adequately take care of the kindergarten education plan. I urge an ought to pass as amended.

SENATOR RUBENS: The amendment, is it in writing?

SENATOR BARNES: I thought the amendment was being passed out, Senator Rubens.

Recess.

Out of recess.

SENATOR BARNES: You all have the amendment in front of you. You will notice that there might be a little confusion on line 8, it was for me, but it has been cleared up. It talks about the rate going from twenty-five cents to thirty-seven cents. All that it is currently, is our tax rate. It is the 12 cents that we were talking about a little bit earlier. That brings it up for a total of thirty-seven cents. We urge support of this amendment on the 12 cents increase, please.

Recess.

Out of recess.

Senator Barnes moved to recommit.

Adopted.

HB 564 is recommitted to Finance (Rule #24).

HB 436-FN-L, establishing restrictions in building aid for conversions of area schools to cooperative school districts, and relative to increasing or decreasing grades in cooperative school districts. Education Committee. Vote: 6-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-1383s

04/09

Amendment to HB 436-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT establishing restrictions in building aid for conversions of area schools to cooperative school districts, increasing or decreasing grades in cooperative school districts, establishing a special village district for the towns of Bridgewater and Hebron, and relative to special reserve funds for the Exeter school district.

Amend the bill by replacing all after the enacting clause with the following:

1 Building Aid Restrictions; Conversion From Area School to Cooperative District. Amend RSA 195:15-a to read as follows:

195:15-a Building Aid. Except as hereinafter provided, for the purpose of receiving state building aid, or other similar aid toward school buildings, which may hereafter be provided, the amount of such aid for cooperative school districts shall apply only to those cooperative or union school districts which were formed from 2 or more districts from 2 or more towns. ***A cooperative school district formed as a result of a conversion from an authorized regional enrollment area plan shall not be eligible for school building aid for the purchase of property in a pre-existing district which had received building aid for the construction of said building or buildings, provided, however, that any aid for which the pre-existing district is currently eligible shall be continued and shall be paid to the cooperative school district.*** A cooperative school district formed from 2 or more school districts within one town shall be deemed to be a school district and not a cooperative school district insofar as receipt of state building or other similar aid toward school buildings is concerned. The limitations of this section relative to cooperative school districts formed from districts within one town shall apply only to those which are so organized after July 1, 1955. Such cooperative school district organized prior to July 1, 1955, shall be deemed a cooperative school district for the purpose of receiving such building aid.

2 Application. Any cooperative school district receiving building aid on the effective date of section 1 of this act based on a conversion of an AREA to a cooperative school district shall continue to receive such aid until the project for which aid was authorized is completed.

3 Grade Increase or Decrease; Cooperative School Districts. Amend RSA 195:16-a to read as follows:

195:16-a Increase or Decrease in Grades. Any cooperative school district ~~[whether organized heretofore or hereafter, which provides only elementary schools or only secondary schools]~~ may amend its existing arrangement or articles of agreement ~~[or otherwise enlarge its powers, to provide kindergarten, elementary, and secondary school education]~~ ***to increase or decrease the grades for which the cooperative school district provides education.*** If the cooperative district was organized pursuant to RSA 195:18, it shall proceed by amendment of its articles of agreement. ~~[The proposed articles of agreement or amendment to existing arrangement shall be submitted to the state board for its approval. If the board finds that the same are in accord with the standards set forth in RSA 195:2, it shall approve the same and notify the cooperative school board of its approval. The proposed amendment to its~~

~~existing arrangement or amended articles of agreement shall thereafter be filed with the district clerk and submitted to the voters of the cooperative school district at an annual or special district meeting. The question shall be considered at such meeting by the voters of each pre-existing district voting separately by ballot with the use of the check-list after reasonable opportunity for debate in open meeting and the question on the ballot shall be in substantially the following form:~~

~~"Shall cooperative school district (amend its articles of agreement) or (amend its existing arrangement) to provide both elementary and secondary schools within the district, in accordance with the written instrument on file with the district clerk?"~~

~~Yes No~~

~~If a majority of the voters of each pre-existing district present and voting shall vote in the affirmative, the clerk of the cooperative school district shall forthwith send to the board a certified copy of the warrant, certificate of posting, evidence of publication, if necessary, and minutes of the meeting. If the state board finds that a majority of the voters voting as aforesaid have voted in favor of increasing the grades for which the cooperative school district is to be responsible, it shall issue its certificate to that effect, and such certificate shall be conclusive evidence of the lawful amendment of the district's articles of agreement notwithstanding any contrary provisions contained in such articles or otherwise.] The cooperative school board shall [assume operating] *cease* responsibility for the [newly-included] *excluded* school grades as of the date specified in the amended articles of agreement or the existing arrangement.~~

4 Establishment of Special Purpose Village District.

I. Notwithstanding any other provision of law to the contrary, the towns of Bridgewater and Hebron are hereby authorized to establish a village district comprised wholly of both towns to construct, own, and maintain a public school facility within the geographical limits of the village district. Such village district may rent or lease such facility to the Newfound area cooperative school district or any other school district hereafter existing with responsibility for the education of the pupils resident in the towns, may make all other contracts necessary to carry out this purpose, and may exercise any other power conferred upon village districts by RSA 52 and any other provision of law.

II. On and after its establishment, such village district shall be deemed to be a duly organized school district for purposes of its eligibility to apply for and receive all forms of aid, grants, and guarantees with respect to the school building including, but not limited to, school building aid under RSA 198 and the state guarantee of bonds or notes under RSA 195-C. The amount of school building aid shall be based on the number of pre-existing districts included in the cooperative school district responsible for the education of pupils resident in the towns of Bridgewater and Hebron.

III. Nothing in this act is intended or shall be construed to authorize such village district to staff or operate such school, to otherwise provide public education to any pupil, or to exercise any other power reserved to school districts, except such powers expressly granted in this section or necessary by implication to effectuate the limited purposes authorized by this section.

IV. Within 3 years from the effective date of this section, the selectmen of the town of Bridgewater and the selectmen of the town of Hebron shall call a meeting of the legal voters residing in the towns to see if they

will vote to establish the district, and if so, to choose the necessary officers for such village district. They shall call the meeting and give notice as town meetings are called and warned, excepting that the warrant shall be posted at 2 or more public places in the district.

5 Special Reserve Funds Authorized. Notwithstanding the provisions of RSA 33:2, the Exeter school district is hereby authorized to create 2 special reserve funds, one to be used to offset the Exeter taxpayers' share of the Exeter region cooperative school district's bond payments, including principal and interest, for the new middle level cooperative school building for the fiscal years from July 1, 2007 through June 30, 2017, and the other to be used to offset the Exeter taxpayers' share of capital improvements to the Exeter region cooperative school district buildings. This act ratifies votes taken to establish and make appropriations to these funds at the 1997 Exeter school district meeting and authorizes additional appropriations to these funds in the future and withdrawals from these funds for the stated purposes when voted by the Exeter school district. These funds are for the purpose of applying some of the funds to be received by the Exeter school district from the sale of its junior and senior high school buildings to the Exeter taxpayers' share of the cost of the Exeter region cooperative school district buildings.

6 Effective Date.

I. Section 1 of this act shall take effect July 1, 1998.

II. Sections 4 and 5 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Establishes restrictions in building aid for conversions of area schools to cooperative school districts.

II. Provides that an increase or decrease in grades being offered by a cooperative school district may be accomplished by amending its arrangement or articles of agreement.

III. Allows the establishment of a special village district for the towns of Hebron and Bridgewater to construct, own, and maintain a public school facility.

IV. Authorizes the Exeter school district to create special funds to be used to offset taxpayers' share of the Exeter region cooperative school district's bond payments for a new middle level cooperative school building and the capital improvements to the Exeter region cooperative school district buildings. The bill ratifies votes taken at the 1997 Exeter school district meeting to establish and make appropriations to these funds and authorizes additional appropriations to, and withdrawals from, these funds.

SENATOR GORDON: This bill is the request of the Department of Education. This bill establishes restrictions in building aid for conversions of area schools to cooperative school districts. It also provides that an increase or decrease in grades being offered by a cooperative school district may be accomplished by amending its arrangement for articles of agreement. The bill also has been amended to allow two towns in the Newfound school district to form a village district within the school district. This will allow the new village district of Hebron and Bridgewater to construct a school within the Newfound area school district. A further amendment allows Exeter to establish a special reserve fund. Exeter recently joined a cooperative and the special fund will allow them to use

the money that other towns paid to them for their school property for payment of their share of the future cooperative district costs. The committee recommends that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 224-FN-L, delaying the start date for the auto emissions inspection program. Environment Committee. Vote: 4-0. Rerefer to committee, Senator Russman for the committee.

SENATOR RUSSMAN: I have talked with the various parties involved at this time, and it appears that we would have adequate time to come up with a bill for next time provided that we receive a sanctions letter. So at this time, we are asking you to pass the bill. I spoke with the others on DES and Jeff Bradley from the House. This is what we would ask you to do.

Motion to rerefer failed.

Senator Russman moved ought to pass.

Adopted.

Ordered to third reading.

HB 638-FN, establishing a pilot program for the random on-site inspection and testing of certain sludge and biosolid samples. Environment Committee. Vote: 4-1. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 638 creates a "random on-site biosolid testing program" within the Department of Environmental Services with the funding for the program to come from a five hundred dollar fee assessed to sludge quality certification holders. The objective for implementing this program is to alleviate concerns residents have about the land application of biosolids, also known as sludge. The bill's sponsors hope to be able to assure the public that any biosolids applied will be clean and safe for application whether they come from an in-state or an out-of-state treatment plant. The Environment Committee urges your support of HB 638.

Adopted.

Ordered to third reading.

Senator D. Wheeler (Rule #42).

HB 674-FN-L, relative to dam registration and filing fees. Environment Committee. Vote: 4-0. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: Yes, HB 674 increases the dam registration fees for the various classes A, B and C for dams. Right now the Dam Maintenance Fund is running a deficit every year. We're having to rely on the general fund to make up for that. This is purely meant to have a more stable funding mechanism so that the damn things will pay for themselves. So in any event, we would ask that you support the recommendation of the committee.

Adopted.

Ordered to third reading.

HB 771-FN-L, relative to hazardous waste operator permit application costs, adding an exemption to the hazardous waste cleanup fund fee,

increasing grant awards made pursuant to the used oil collection center program, and relative to the automotive oil fee. Environment Committee. Vote: 3-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 771 was a request of the Department of Environmental Services and addresses their statutory concerns in the areas of permit application fees, hazardous waste fees and the used oil grant programs. The first portion of the bill seeks to remove an error in the statutes relative to the permit application fees that are assessed at the department. Section II, exempts certain remedial site wastes from the hazardous waste generator fee. This change is consistent with last session's Brownfield legislation and would create additional incentives for site cleanup. The final portion of HB 771 increases the money available for the Used Oil Grants Program from \$1,500 to \$2,500 by changing the fee in the automotive oil fee. The Environment Committee urges your support in HB 771. Thank you.

Adopted.

Ordered to third reading.

HB 188-FN, relative to the authority of the boxing and wrestling commission. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment, Senator Larsen for the committee.

1997-1412s

01/02

Amendment to HB 188-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to amateur boxing.

Amend the bill by replacing all after the enacting clause with the following:

1 Cooperation With Amateur Boxing Committee Required. RSA 285:9-a is repealed and reenacted to read as follows:

285:9-a Cooperation With Amateur Local Boxing Committee Required.

I. Notwithstanding any provision of this chapter to the contrary, the commission shall, in the conduct of all amateur boxing or sparring matches and exhibitions sanctioned by USA Boxing, Inc., acknowledge and follow the rules and regulations of USA Boxing, Inc.

II. The local boxing committee, New England Association of USA Boxing, Inc., shall certify and register all officials including, but not limited to referees, judges, timekeepers, physicians, and clerks, pursuant to USA Boxing, Inc. rules and Public Law 95-606.

III. Certified officials shall be assigned by the commission to work amateur boxing competitions within the state of New Hampshire, and shall be overseen and under the direction of the commission.

IV. Members of the commission shall become members of USA Boxing, Inc. and take any certification courses or clinics, or both, offered by the New England Association of USA Boxing, Inc.

V. Neither the New England Association of USA Boxing, Inc. nor the commission shall have or exercise unilateral power or authority to waive, circumvent, or ignore any approved and existing rule, procedure, or policy of USA Boxing, Inc. Any circumstance not addressed by USA Boxing, Inc. rules, procedures, or policies shall be determined by the commission.

VI. The commission shall collect 5 percent of the gross receipts of paid admissions to all amateur bouts, as mandated by RSA 285:14.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the New Hampshire boxing and wrestling commission to follow the rules of USA Boxing, Inc. and to cooperate with the local boxing committee, New England Association of USA Boxing, Inc., in its conduct of amateur boxing bouts.

SENATOR LARSEN: This bill as amended is a tremendous compromise between the New Hampshire Boxing and Wrestling Commission and USA Boxing, Inc., which currently oversees amateur boxing in 49 states. For some time now, the USAB has refused to sanction fights in the state of New Hampshire because the New Hampshire Boxing Commission refused to adopt USAB rules governing the qualifications of amateur boxing officials. Because of this aged conflict, New Hampshire boxers, many of whom have really made a name for themselves in the sporting world, can train in New Hampshire but must travel out of state to compete. As you can imagine, traveling is draining for fighters and dulls their competitive edge. Under HB 188-FN as amended, members of the New Hampshire Boxing Commission will become members of the USAB and the commission will be able to conduct USAB sanctioned fights within New Hampshire. The local arm of the USAB, namely the New England Association of USA Boxing, Inc., shall certify and register all officials, including referees, judges, and timekeepers. The commission will, in turn, direct and oversee certified officials assigned by the commission to work amateur boxing bouts in New Hampshire. Five percent of the gross receipts of paid admissions to all amateur bouts shall be appropriated to the commission. Passage of this bill will be a momentous occasion for the boxers of this state. The committee recommends that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 197-FN, relative to the regulation of wetland scientists. Executive Departments and Administration Committee. Vote: 4-4. Rerefer to committee, Senator Patenaude for the committee.

SENATOR PATENAUDE: The many concerns surrounding the bill arraign from the problems with multiple delineation standards to problems with the necessity of certifying wetlands and soil scientists. Currently, the general public can go directly to the state to get a permit. Nowhere in the statute does it say that an application must be certified by a soil scientist before that application is submitted to the Wetlands Bureau. Similar legislation was referred to different committees and has failed in previous sessions, because numerous fundamental concerns were raised during the hearing and the executive session on this bill. The committee moved rerefer on HB 197 so we may further study the issue at hand.

SUBSTITUTE MOTION

Senator Roberge moved to substitute ought to pass for rereferred.

SENATOR ROBERGE: I withdraw my motion with the reason being that I am told that this is going to be laid on the table so that an amendment can be drafted and then it will be taken back off the table later on today for debate.

Senator Blaisdell moved to have **HB 197-FN**, relative to the regulation of wetland scientists, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 197-FN, relative to the regulation of wetland scientists.

HB 572-FN, relative to town, city, and county treasurers and to the state treasurer. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: This bill will streamline the operations of the state treasurer's office. Sections 1, 4 and 6 of the bill make administrative rulemaking by the state treasurer discretionary. In accordance with changes in the banking landscape, Section 2 of the bill changes the method by which the state treasurer may make deposits. RSA 6:7 currently reads that "The treasurer may make deposits within NH or MA or in any such trust company incorporated or doing business in NH or MA, or savings bank operating in NH." House Bill 572 provides that the treasurer may make deposits in U.S. savings banks or trust companies which have a branch in NH. Section 3 of the bill decreases from two years to one year the time for certain state checks to be presented for payment. Under HB 572, checks outstanding for more than one year will be reported to the Abandoned Property Division and advertised in hopes of finding the owner. Section 5 of the bill increases from six months to two years the increments at which the state treasurer must notify all 20 of the state's trust fund administrators to determine how the administrator wishes to invest the funds. The current process simply does not make sense, particularly for those administrators who choose a long-term investment option that is unlikely to be changed every six months. Sections 7, 8, 9, and 13, modify the duties of county, city, town and school district treasurers so that treasurers may make deposits in banks that are outside of the state but which pledge collateral to a third party custodian or the regional reserve bank. Sections 10 and 11 of the bill give authority to the Department of Revenue to collect railroad tax. Sections 12, and 17 transfer certain collection duties of the state treasurer to the commissioner of revenue administration, the office of emergency management, and the public utilities commission. Section 18 increases from twenty-five dollars to fifty dollars the minimum amount of unclaimed estate shares that shall escheat to the state. Section 19 repeals laws relative to the distribution of state treasury funds and relative to payment to the general fund from unclaimed estate shares. No one opposed the bill at the hearing. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, the underground utility damage prevention system and the 911 system. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass with amendment, Senator Whipple for the committee.

1997-1446s
03/08

Amendment to HB 726-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to the jurisdiction and authority of the public utilities commission, the underground utility damage prevention system, the 911 system, the site evaluation committee, and criminal activities related to wireless telephone cloning.

Amend RSA 362:4-b, I as inserted by section 1 of the bill by replacing it with the following:

I. The term "public utility" shall not include any corporation, company, association, joint stock association, partnership and person, their lessee, trustee or receiver appointed by any court, or assignee, which provides, sells, delivers, or stores liquefied petroleum gas in cylinders or tanks, or who distributes liquefied petroleum gas through underground distribution systems, except for those systems regulated by the commission as of May 1, 1997.

Amend RSA 374:48, III as inserted by section 3 of the bill by replacing it with the following:

III. "Excavate", "excavating", or "excavation" means any operation conducted in a public way, right-of-way, easement, public street, or other public place, in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosive, and includes but is not limited to drilling, grading, boring, milling, trenching, tunneling, scraping, tree and root removal, cable or pipe plowing, fence or sign post installation, pile driving, wrecking, razing, rending or moving any structure or mass material, but does not include the tilling of soil for agricultural purposes.

Amend RSA 374:48, VII as inserted by section 5 of the bill by replacing it with the following:

VII. "Underground facility" or "facility" means any property which is buried, placed below ground, or submerged on a public way, right-of-way, easement, public street, or other public place and is being used or will be used for the conveyance of cable television, electricity, gas, sewerage, steam, telecommunications, or water.

Amend RSA 374:51, IV as inserted by section 8 of the bill by replacing it with the following:

IV. Prior to complying with the notification requirements of paragraph II, an excavator may identify the perimeter of the proposed site of the excavation by marking the perimeter in an appropriate manner in the color white or may communicate the perimeter of the excavation by means of construction plans, an on-site meeting with affected operators, or other suitable means acceptable to the parties.

Amend the bill by replacing sections' 16-17 with the following:

16 Enhanced 911 System; Commercial Mobile Radio Service. Amend RSA 106-H:8 to read as follows:

106-H:8 ~~[Telephone Utility]~~ **Coordination by Provider of Telephone Service.** Every telephone utility authorized to do business in the state pursuant to RSA 374:22 **and every entity which provides commercial mobile radio service, as defined in 47 C.F.R. 20.3, and required by the Federal Communications Commission to provide 911 service,** shall make available the universal emergency telephone number 911 for use by the public in seeking assistance from fire, police and other related safety agencies through a single public safety answering point, ~~[no later than 3 years from the effective date of]~~ **for the purpose of implementing** this chapter. **Any provider of commercial mobile radio service shall be entitled to reimbursement from the bureau of the reasonable expenses incurred to accomplish the provision of enhanced 911 service to the extent authorized by the Federal Communications Commission and approved by the enhanced 911 commission. The bureau may utilize the services of any other state agency or a consultant to assist in reviewing the requested reimbursement to insure that it is reasonable and may seek recovery of the expense of that review from the provider.**

17 Commercial Mobile Radio Service 911 Surcharge. Amend RSA 106-H:9, I to read as follows:

I. The enhanced 911 system shall be funded through a surcharge to be levied upon each residence and business telephone exchange line, including PBX trunks and Centrex lines, ~~[trunks and lines serving cellular communications towers in the state,]~~ **each individual commercial mobile radio service number, and each semi-public and public coin and public access line.** No such surcharge shall be imposed upon more than 25 **business telephone exchange lines, including PBX trunks and Centrex lines, or more than 25 commercial mobile radio service exchange lines** per customer billing account. **In the case of local exchange telephone companies,** the surcharge shall be contained within tariffs **or rate schedules** filed with the public utilities commission and shall be billed on a monthly basis by each local exchange telephone company. **In the case of an entity which provides commercial mobile radio service the surcharge shall be billed to each customer on a monthly basis and shall not be subject to any state or local tax; the surcharge shall be collected by the commercial mobile radio service provider, and may be identified on the customer's bill.** Each local exchange telephone company **or entity which provides commercial mobile radio service** shall remit the surcharge amounts on a monthly basis to the enhanced 911 services bureau, which shall be forwarded to the state treasurer for deposit in the enhanced 911 system fund. Such fund shall be continually appropriated to the bureau and shall not lapse. The moneys in the account shall not be used for any purpose other than the development and operation of enhanced 911 services, in accordance with the terms of this chapter. Surcharge amounts shall be reviewed after the budget has been approved or modified, and if appropriate, new tariffs **or rate schedules** shall be filed with the public utilities commission reflecting the surcharge amount.

Amend the bill by replacing all after section 18 with the following:

19 New Section; Competitive Electricity Supplier Requirements. Amend RSA 374-F by inserting after section 6 the following new section:
374-F:7 Competitive Electricity Supplier Requirements.

I. Competitive energy suppliers are not public utilities pursuant to RSA 362:2, though a competitive energy supplier may seek public utility status from the commission if it so chooses. Notwithstanding a competitive energy supplier's non-utility status, the commission is authorized to establish requirements, excluding price regulation, for competitive electricity suppliers, including registration, registration fees, customer information, disclosure, standards of conduct, and consumer protection and assistance requirements. Unless electing to do so, an electricity supplier that offers or sells at retail to consumers within this state products and services that can lawfully be made available to such consumers by more than one supplier shall not, because of such offers or sales, be deemed to be a public utility as defined by RSA 362:2. These requirements shall be applied in a manner consistent with the restructuring principles of this chapter to promote competition among electricity suppliers.

II. Aggregators of electricity load that do not take ownership of power or other services and do not represent any supplier interest are not public utilities pursuant to RSA 362:2, but shall notify the commission of their intent to do business. Municipalities that aggregate electric power or energy services for their citizens pursuant to RSA 53-E are not public utilities pursuant to RSA 362:2.

III. The commission is authorized to assess fines against, revoke the registration of, and prohibit from doing business in the state, any competitive electricity supplier which violates the requirements of this section.

IV. As a condition of operation, for a 2-year interim period from the date that competition is implemented in one or more areas of the state, competitive energy suppliers and load aggregators shall submit to the jurisdiction of the commission for mediation and resolution of disputes between customers and competitive energy suppliers or aggregators. Municipalities that aggregate electric power or energy service for their citizens pursuant to RSA 53-E are not subject to this paragraph.

V. The commission shall adopt rules, under RSA 541-A, to implement this section.

20 New Section; Municipal Aggregation of Services. Amend RSA 53-E by inserting after section 3 the following new section:

53-E:3-a Municipal Aggregators Authorized. Municipal aggregators of electricity load under this chapter, and municipalities operating municipal electric utilities under RSA 38, are expressly authorized to aggregate other services commonly and regularly billed to customers. Nothing in this chapter shall be deemed to limit the capacity of customers to select any service or combination of services offered by such municipal aggregators or to limit the municipality from combining billing for any or all utility services.

21 Definition Changed; Bulk Power Supply Facilities. Amend RSA 162-H:2, II to read as follows:

II. "Bulk power supply facilities" means:

(a) Electric generating station equipment and associated facilities designed for, or capable of, operation at any capacity of 30 megawatts or more, or electric generating station equipment and associated equipment which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines [~~in accordance with RSA 162-H:1.~~] should require a certificate, ***consistent with the findings and purposes set forth in RSA 162-H:1.***

(b) An electric transmission line of design rating of 100 kilovolts or more, associated with a generating facility outlined in subparagraph (a), over a route not already occupied by a transmission line or lines.

(c) An electric transmission line of a design rating in excess of 100 kilovolts that is in excess of 10 miles in length, over a route not already occupied by a transmission line, or an electric transmission line which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines [~~in accordance with RSA 162-H:1.~~] should require a certificate, ***consistent with the findings and purposes set forth in RSA 162-H:1.***

22 New Paragraph; Certificate or Certificate of Site and Facility Defined. Amend RSA 162-H:2 by inserting after paragraph II the following new paragraph:

II-a. "Certificate" or "certificate of site and facility" means the document issued by the committee, containing such conditions as the committee deems appropriate, that authorizes the applicant to proceed with the proposed site and facility.

23 Definition Changed; Energy Facility. Amend RSA 162-H:2, VII to read as follows:

VII. "Energy facility" means any industrial structure, other than bulk power supply facilities, as defined in paragraph II, that may be used

substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include but not be limited to industrial structures such as oil refineries, gas plants, equipment and associated facilities designed to use any, or a combination of, natural gas, propane gas and liquefied natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a 30 megawatt electric generating station and its associated facilities, plants for coal conversion and on-shore and offshore loading and unloading facilities for energy sources. Energy facility shall also include energy transmission pipelines, storage tanks, or any other facility which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines~~[-in accordance with RSA 162-H:1,]~~ requires a certificate, **consistent with the findings and purposes set forth in RSA 162-H:1.**

24 New Paragraph; Petition Defined. Amend RSA 162-H:2 by inserting after paragraph X the following new paragraph:

X-a. "Petition" means a request to the committee to rule on the applicability of this chapter to a particular proposed bulk power supply facility or energy facility.

25 Site Evaluation Committee; Designee Permitted. Amend RSA 162-H:3 to read as follows:

162-H:3 Site Evaluation Committee. The site evaluation committee shall consist of the commissioner of the department of environmental services **or assistant commissioner as designee**, the director of the division of water, the commissioner of the department of resources and economic development **or the director of the division of economic development as designee**, the commissioner of the department of health and human services **or one of the 2 most senior administrators within the department responsible for management of public health services as designee**, the executive director of the fish and game department, the director of the office of state planning, the director of the division of parks and recreation, the director of the division of forests and lands, the director of the division of air resources, the director of the governor's office **of energy [of office] and community services or deputy director as designee**, the commissioner of the department of transportation **or assistant commissioner as designee**, and the commissioners and chief engineer of the public utilities commission. The commissioner of the department of environmental services shall be chairperson of the committee, and the chairperson of the public utilities commission shall be vice-chairperson. ~~[Notwithstanding any other agency authority to the contrary, no member may delegate a voting right to others.]~~

26 New Paragraph; Site Evaluation Committee; Delegation of Authority. Amend RSA 162-H:4 by inserting after paragraph III the following new paragraph:

III-a. The committee may delegate to an agency or official represented on the committee the authority to specify the use of any technique, methodology, practice, or procedure approved by the committee within a certificate issued under this chapter, or the authority to specify minor changes in the route alignment to the extent that such changes are authorized by the certificate for those portions of a proposed electric transmission line or energy transmission pipeline for which information was unavailable due to conditions which could not have been reasonably anticipated prior to the issuance of the certificate.

27 Public Hearing; Public Notice. Amend RSA 162-H:10, I to read as follows:

I. Within 30 days after acceptance of an application for a certificate of site and facility, pursuant to RSA 162-H:7, the site evaluation committee and, if a bulk power supply facility application, the commission, shall hold at least one joint public hearing in each county in which the proposed facility is to be located and shall publish a public notice not less than ~~[21]~~ 14 days before said hearing in one or more newspapers having a regular circulation in the county in which the hearing is to be held, describing the nature and location of the proposed facilities. The public hearings shall be joint hearings, with representatives of the other agencies that have jurisdiction over the subject matter and shall be deemed to satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental impact. The hearings shall be for public information on the proposed facilities with the applicant presenting the information to the site evaluation committee and to the public. Notwithstanding any other provision of law, the hearing shall be a joint hearing with the other state agencies and shall be in lieu of all hearings otherwise required by any of the other state agencies; provided, however, if any of such other state agencies does not otherwise have authority to conduct hearings, it may not join in the hearing under this chapter; provided further, however, the ability or inability of any of the other state agencies to join shall not affect the composition of the committee under RSA 162-H:3 nor the ability of any member of the committee to act in accordance with this chapter.

28 Electric Utility Restructuring Implementation; Compliance Filing Implementation Deferral. RSA 374-F:4, IV is repealed and reenacted to read as follows:

IV. A utility having less than a 50 percent share of statewide retail electric distribution sales (measured in kilowatt hours per year) may seek a ruling by the commission that it is in the public interest that implementation of such utility's compliance filing be deferred until compliance filings representing 70 percent of retail electric sales have been or are being implemented.

29 Statement of Purpose. The purpose of sections 30-31 of this act is to prohibit a person from unlawfully possessing, using, distributing, manufacturing, buying, or selling a cloned wireless telephone or other access device which is capable of unlawfully obtaining telecommunication services; to establish penalties for certain violations under certain conditions; to define certain terms; and, generally, to criminalize wireless telephone cloning and access device counterfeiting.

30 New Subdivision; Acts Related to Wireless Telephone Cloning Criminalized. Amend RSA 638 by inserting after section 20 the following new subdivision:

Wireless Telephone Cloning

638:21 Definitions. In this subdivision:

I. "Access device" means property consisting of any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number, personal identification number, or any other data intended to control or limit access to telecommunications or other computer networks in either human readable or computer readable form, either copy or original, that can be used to obtain telephone service.

II. "Clone" means to program or reprogram a wireless telephone or access device with an electronic serial number, mobile identification

number, or personal identification number which has been obtained from a registered wireless telephone without the consent of the telecommunication service provider.

III. "Defaced access device" means any cloned wireless telephone or access device in either human readable or computer readable form, either copy or original, which has been removed, erased, defaced, altered, destroyed, covered, or otherwise changed in any manner from its original configuration. In any prosecution regarding a defaced access device, any removal, erasure, defacement, alteration, destruction, covering, or other change in such access device from its original configuration performed by any person other than an authorized manufacturer of or service provider to access devices shall be presumed to be for an unlawful purpose.

IV. "Manufacture" means to produce or assemble, modify, alter, program, or re-program any wireless telephone or reader without the consent of the telecommunication service provider.

V. "Reader" means a device which is capable of, or has been manufactured, assembled, altered, modified, programmed, or re-programmed so as to be capable of acquiring or facilitating the acquisition of an electronic serial number, mobile identification number, personal identification number, or any code, or encoded or encrypted transmission, used in originating, facilitating, or transmitting telecommunication service without the consent of the telecommunication service provider.

VI. "Registered wireless telephone" means a wireless telephone registered with a telecommunication service provider for a fee as set by the telecommunication service provider.

VII. "Telecommunication service" means any service provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images and sounds, or intelligence of any nature by telephone, including wireless telephone.

VIII. "Telecommunication service provider" means a person or entity providing telecommunication service including, but not limited to, a wireless telephone company which, for a fee, supplies the facility, cell site, wireless telephone switching office, registered wireless telephone, or other equipment.

IX. "Telephone cloning paraphernalia" means materials that, when possessed in combination, are capable of creating a cloned cellular telephone. Telephone cloning paraphernalia includes, but is not limited to:

- (a) Readers;
 - (b) Cellular telephones;
 - (c) Cables;
 - (d) EPROM chips;
 - (e) EPROM burners;
 - (f) Software for programming the cellular telephone with a false electronic serial number, mobile identification number, other identifiable data, or a combination of those items;
 - (g) Computers containing software described in subparagraph (f);
- and
- (h) Lists of electronic serial number and mobile identification number combinations.

X. "Traffic" means to sell, buy, receive, possess, distribute, exchange, give, transfer, or dispose of an access device, defaced access device, reader, or cloned wireless telephone, or plans or instructions for making or assembling the same, to another, or to offer or agree to do the same.

XI. "Wireless telephone" means any equipment or instrument that transmits:

- (a) Cellular telephone service;
- (b) Personal communication service; or
- (c) Any other commercial mobile radio service as defined in 47 C.F.R. 20.3.

638:22 Criminal Acts Involving Cloned Phones and Telephone Cloning Paraphernalia; Possession or Use.

I. A person is guilty of a misdemeanor if such person knowingly possesses or uses a cloned wireless telephone.

II. A person is guilty of a class B felony if such person knowingly possesses or uses telephone cloning paraphernalia, or possesses 2 or more unauthorized access devices or defaced access devices. The requisite knowledge or belief is presumed in the case of a person who is found in possession of 2 or more unauthorized access devices or defaced access devices.

638:23 Criminal Acts Involving Cloned Phones and Telephone Cloning Paraphernalia; Traffic and Manufacture; Exclusions. A person is guilty of a class B felony if:

I. The person knowingly and with intent to defraud, traffics in or manufactures a cloned wireless telephone; or

II. The person knowingly and with the intent to defraud, traffics in one or more unauthorized access devices or defaced access devices; or

III. The person knowingly and with intent to defraud, traffics in or manufactures telephone cloning paraphernalia.

IV. The provisions of 638:22 and 638:23 do not apply to:

(a) Officers, employees, or agents of cellular telephone service providers who engage in conduct prohibited by this section for the purpose of constructing, maintaining, or conducting the radio telecommunication service or for law enforcement purposes pursuant to RSA 570-A;

(b) Law enforcement officers and public officials in charge of jails, police premises, sheriff's offices, department of corrections institutions, and other penal or correctional institutions, or any other person under the color of law, who engages in conduct prohibited by this section for the purpose of law enforcement or in the normal course of the officer's or official's employment activities or duties; and

(c) Officers, employees, or agents of federal or state agencies that are authorized under RSA 570-A to monitor or intercept cellular telephone service in the normal course of the officer's, employee's, or agent's employment.

638:24 Restitution; Civil Action; Forfeiture.

I. The court may, in addition to any other sentence authorized by law, sentence a person convicted of violating this subdivision to make restitution to the appropriate telecommunication service provider.

II. A telecommunication service provider aggrieved by a violation of this subdivision may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including preliminary and other equitable or declaratory relief, compensatory and punitive damages, reasonable investigation expenses, costs of suit, and attorney fees.

III. Any property used in committing, or to facilitate the commission of, offenses under this subdivision is subject to forfeiture, including but not limited to access devices, defaced access devices, readers, wireless telephones, cloned wireless telephones, computers, computer systems, computer networks, hardware, software, any data residing or stored in any of the foregoing, and radio frequency scanners.

31 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not

affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

32 Effective Date.

I. RSA 374:51, IV and V as inserted by section 8 of this act, RSA 374:55, IV-c as inserted by section 12 of this act, and sections 29-30 of this act shall take effect January 1, 1998.

II. Sections 17 and 18 of this act shall take effect July 1, 1997.

III. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

(a) Exempts competitive electricity suppliers and certain gas distributors from regulation as a public utility.

(b) Makes misuse of the 911 system a violation.

(c) Exempts from approval by the commission certain activities of parent companies of public utilities which do not adversely affect rates or services in state.

(d) Makes various changes to the underground utility damage prevention system.

(e) Allows the commission to waive submission requirements for certain least cost integrated resource plans.

(f) Expands the enhanced 911 system to include commercial mobile radio service.

(g) Authorizes the public utilities commission to establish and enforce requirements, excluding price regulation, for competitive electricity suppliers.

(h) Authorizes certain aggregators of electricity load and municipalities operating municipal electric utilities to aggregate other services.

(i) Authorizes certain designees to serve on the site evaluation committee.

(j) Makes a variety of technical changes in the law relative to energy facility evaluation.

(k) Authorizes the site evaluation committee to delegate certain authority to an agency or official represented on the committee.

Criminalizes various acts related to wireless telephone cloning.

SENATOR WHIPPLE: House Bill 726 as amended by the House and is now amended by the Senate Executive Departments and Administrative Committee as a the result of at least seven subcommittee work sessions in the House and a tremendous amount of work in the Senate. During the Senate hearing on HB 726, numerous new amendments were brought forth, many of which survived the executive session. House Bill 726 makes various changes to the definition check section, the notification section and the penalty section in the statutes governing the underground utility damage prevention system. In ways, the definitions of excavate and underground facility was altered to include operations and public ways. Also, in a language change from "shall" to "may" excavators may identify the perimeter of the proposed excavation site and now have the option to notify all of the affected parties. Under the current system, any excavator meaning any person who takes his shovel to the ground at an excavation site, must notify all of the affected parties. This is simply unreasonable for large construction sites where there could be 20 or more excavators. Under the civil penalty provisions of HB 726, any excavator who damages any underground facility and fails to notify the operator or who back fills the excavation without permission, will be

subject to a five hundred dollar civil penalty. Penalties may be increased to five thousand dollars for any excavator who in the prior three years has been found to have violated RSA 374:51. The PUC may also assess the excavator for expenditures made to collect the penalties. House Bill 726 also provides that a public utility shall not include any corporation of persons that provides, sells or delivers or stores liquefied petroleum gas or who distributes liquefied petroleum gas through underground distribution systems except for those systems regulated by the PUC as of May 1, 1997. This except clause was put into the bill because the original language of the bill as amended by the House inadvertently deregulated certain propane gas distributors. House Bill 726 also provides that the PUC may waive any requirement to file at least cost integrated research plans by an electric utility except for plans relating to transmission and distribution and exempts from PUC approval, certain public utility parent company transactions which do not adversely affect the rates, terms of service or operation of the public utility within New Hampshire. In addition, HB 726 expands the enhanced 911 system to include commercial mobile radio service. The bill as amended by the House, expanded the 911 system to cellular mobile or two-way wireless telecommunications services. However, cellular mobile or two way wireless telecommunications services include not only cellular phones but CB radios and private and municipal radio systems. The committee voted to narrow the language to commercial mobile radio service to foster the intent of this section of the bill. The Executive Departments and Administration Committee also voted to amend the section of commercial mobile radio service 911 surcharge so that the surcharge shall not be imposed on more than twenty-five business telephone exchange lines and shall not be imposed on more than twenty-five commercial mobile radio service exchange lines per customer billing account. Under this amendment, resellers of telecommunications services including commercial mobile radio resellers will not be able to avoid paying the 911 tax. Also, under HB 726, deliberate misuse of the 911 shall constitute a violation. House Bill 726 clearly states that competitive electricity suppliers are not public utilities, despite their non utility status in the interest of minimal consumer protection, competitive utility suppliers will be minimally regulated by the PUC insofar as registration and registration fees, customer information, disclosure and standards of conduct and consumer protection and assistance requirements. The commission will be able to access fines and revoke the registration of any competitive electricity suppliers that violate this section. The PUC will not have authority to govern price regulations of competitive electricity suppliers. Aggregators of electricity load that do not take ownership of power and do not represent any supplier interest, are also not considered public utilities. Despite their non public utility status, again, in the interest of consumer protection, such aggregators shall notify the PUC of their intent to do business, in addition, the municipalities of aggregate power are also not considered public utilities. Further, consumer protection is provided in section 19, IV of the bill, which states that, "For a two-year interim period from the date that competition is implemented in one or more areas of the state, competitive energy suppliers and load aggregators shall submit to the jurisdiction of the PUC for mediation and resolution disputes between such suppliers and aggregators and consumers." Section 20 of the bill as listed in the amendment authorize municipal aggregators of electricity loads and municipalities operating municipal electric utilities to aggregate other services commonly and regularly

billed to customers. Pilot programs in communities around the state including Manchester, have been successful in aggregating multiple services. In fact, this is happening across the country. American electric power company based in Columbus, Ohio is branching out into the telephone business. Boston Edison will soon be branching into the cable television services and home security systems. This type of one-stop shopping and bulk buying power, will enable savings to be passed on to consumers. Section 25 of the bill, as listed in the amendment, expands the composition of the site evaluation committee to include alternates by way of assistant commissioners, directors and senior administrators of various state agencies currently represented by agency commissioners. Section 26 of the bill as listed in the amendment provides the site evaluation committee may delegate to an agency or official representative on the committee, the authority to specify use of any technique, procedure or practice certified and approved by the committee. If an unexpected circumstance occurs under section 26, the committee may also delegate authority for minor changes in route alignment as long as such changes are specifically authorized by the certificate. In addition, because of scheduling difficulties caused by the current site evaluation public hearing timeline, section 27 of the bill as listed in the amendment drops the committee's public notice requirement from 21 days to 14 days. Each of the immediately mentioned amendments to the site evaluation committee and its processes will help to streamline the entire site evaluation process. In an effort to waive in the implementation of electric utility restructuring, section 28 of the bill, provides that a utility with less than 50 percent share of statewide distribution sales, may seek from the PUC, that it is in the public interest that implementation of the utilities compliance filing be deferred until filings representing 70 percent of retail electric sales are in the process of or have been implemented. This is simply a fairness issue for those electric utilities not currently involved in litigation. This amendment will allow competition to move forward more slowly. Lastly, HB 726 criminalizes various acts related to wireless telephone cloning. Currently, New Hampshire does not have any statutes that specifically outlaw telephone cloning of a wireless telephone or access device with an electronic serial number, mobile identification number or PIN number. Given the dramatic increase in wireless communication services, this section is necessary to protect New Hampshire's citizens. The committee pleads with you to pass this bill as amended. It passed out of the committee unanimously. Thank you, Mr. President.

Amendment adopted.

Ordered to third reading.

HB 785-FN, relative to alcohol and other drug abuse professionals. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-1215s
05/09

Amendment to HB 785-FN

Amend RSA 330-C:3, XX as inserted by section 1 of the bill by replacing it with the following:

XX. "Supervision" means no less than one hour per week of individual or group supervision with a clinician licensed in substance abuse counseling with education, supervisory experience, and ethics approved by the board.

Amend RSA 330-C:5, I(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Qualified members of other professions or occupations, including those currently certified under RSA 330-A, including psychologists, clinical social workers, mental health counselors, marriage and family therapists, and pastoral counselors, and also including school guidance counselors, engaging in practices similar in nature to substance abuse counseling provided that they are authorized by the laws of this state to engage in such practices and do not represent themselves as a "licensed alcohol and drug counselor" or "licensed clinical supervisor."

Amend RSA 330-C:6 as inserted by section 1 of the bill by inserting after paragraph VI the following new paragraph:

VII. The board established under RSA 330-C:6, I shall designate one of its members who will serve as a liaison with the board of examiners of psychology and mental health practice to collaborate on issues of mutual interest.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Liaison to the Board; Mental Health. Amend RSA 330-A:3 to read as follows:

330-A:3 Board. There shall be a board of examiners of psychology and mental health practice consisting of the following members: 3 certified psychologists; one teacher of psychology who has received a doctoral degree in psychology, is a member of the faculty of an accredited college or university in this state, and is actively engaged in the teaching of psychology; one certified pastoral counselor; 2 certified clinical social workers; one certified mental health counselor; one certified marriage and family therapist; and 2 public members; each to be appointed by the governor, with the approval of the council, to a term of 3 years. At least one of the board members representing certified pastoral counselors, certified social workers, certified mental health counselors, or certified marriage and family therapists shall have a doctoral degree in the applicable field of practice. The board shall elect a chairman each year with no person serving consecutive terms as chairman. No member shall be appointed to more than 2 consecutive terms. Only board members provided for in this section shall have the authority to vote in board determinations. ***The board shall designate one of its members who shall serve as liaison with the board of licensing for alcohol and other drug abuse professionals to collaborate on issues of mutual interest.***

SENATOR PATENAUE: House Bill 785 establishes the board of licensing for alcohol and other drug abuse professions which shall be administratively attached to the Department of Health and Human Services. As amended, the bill exempts qualified members of other professions such as guidance counselors, psychologists, clinical social workers, mental health counselors, marriage and family therapists, pastoral counselors, students working to become licensed, self-help groups and clergy who do not hold themselves out to be licensed alcohol and drug counselors or licensed clinical supervisors. In addition, the board shall license any applicant who is licensed in another state and who meets or exceeds New Hampshire standards for alcohol and drug abuse professional licensure. House Bill 785 grants certain powers to, and imposes certain duties on the board, and establishes licensure fees, requirements and qualifications. The bill also establishes requirements for hearings and makes violation of the chapter a Class A misdemeanor. Alcohol and drug abuse

are rampant in the U.S. The American Medical Association has formally recognized both alcoholism and drug abuse as diseases. Though the state of NH currently certifies alcohol and drug abuse counselors on a voluntary basis (except in state funded programs), the licensure requirements provided in HB 785 will further protect the public. Furthermore, Medicaid and HMO criteria for coverage include provider licensure. No one opposed the bill at the hearing. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Senators Francoeur and D. Wheeler in opposition to HB 785-FN.

HB 806-FN-L, relative to the business finance authority. Executive Departments and Administration Committee. Vote: 6-0. Ought to pass with amendment, Senator Larsen for the committee.

1997-1300s

01/08

Amendment to HB 806-FN-LOCAL

Amend the bill by replacing section 11 with the following:

11 Approval Power. Amend RSA 162-A:20 to read as follows:

162-A:20 Meetings. The authority shall hold its meetings in a building that is accessible to persons with disabilities. ~~[Five]~~ **Six** voting members of the board shall constitute a quorum, and the affirmative vote of ~~[5 members]~~ **a majority of members in attendance at a meeting** shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the power of a quorum to exercise all rights and perform all duties of the authority. Notwithstanding RSA 91-A or any other law to the contrary, members of the board shall be permitted to participate in meetings by telephone, provided that any board member so participating shall be able to be heard by and to hear every other member of the board participating in the meeting, and, unless the board is meeting in a nonpublic session as permitted by RSA 91-A:3, shall be able to be heard by all members of the public attending the meeting. Voting members of the board participating by telephone shall be treated as present at the meeting for all purposes, including the establishment of a quorum. Any meeting at which one or more board members are participating by telephone shall be recorded verbatim by magnetic tape or otherwise, and such recording shall be made available for public inspection to the same extent as minutes of the meeting, provided that the accidental destruction of a recording or the accidental failure to record any meeting shall not invalidate any action taken at that meeting.

Amend the bill by replacing section 17 with the following:

17 Transfer of Retirement. Unless determined to be eligible under the provisions of RSA 100-A, the employees of the business finance authority and all such employees' contributions, plus accumulated interest, to the New Hampshire retirement system shall be transferred within 180 days of the effective date of this act to a qualified retirement plan. All benefits accrued to the time of withdrawal from the system shall be fully vested in such withdrawing employees and shall be no less than the accumulated benefit obligation. The system shall cooperate with the authority in its establishing a successor retirement plan and shall cooperate in arranging for the transfer of such employee retirement benefits earned under the system to a successor retirement plan where practicable.

Amend the bill by replacing section 19 with the following:

19 Effective Date. This act shall take effect October 1, 1997.

SENATOR LARSEN: Currently the Business Finance Authority (BFA) is an enterprise fund of the state of New Hampshire which is governed by a 14 person board of directors consisting of two house members, two senate members, the state treasurer, and nine voting members appointed by the governor and executive council. The BFA is currently funded solely through fee income from banks and member businesses. House Bill 806 makes the BFA an independent entity, similar to the NH Housing Finance Authority, Municipal Bond Bank, and the Community Development Finance Authority. In addition, as amended, HB 806 changes the quorum from five to six members and provides that for any action taken by the board, there must be an affirmative vote of the majority of members in attendance at a meeting with at least six members present. Under the current BFA voting system, even if a vote is 4:1, the vote will not pass. House Bill 806 also grants voting rights to the state treasurer. Because currently bills to be paid by the BFA are processed through both the BFA and the state, passage of this bill would simplify both the state's and the BFA's accounting processes. The remaining amendments to the bill change the effective date to October 1 so as not to adversely affect one person soon retiring from the BFA and adds the language "unless determined to be eligible under the provisions of RSA 100-A," which is the New Hampshire Retirement System Code. No one opposed the bill at the hearing. The committee recommends unanimously this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Blaisdell moved to have **HB 197-FN**, relative to the regulation of wetland scientists, taken off the table.

Adopted.

Question is on the committee report of rereferred.

Motion failed.

SUBSTITUTE MOTION

Senator Roberge moved to substitute ought to pass for rereferred.

SENATOR ROBERGE: House Bill 197 is a product of a summer study committee. It simply expands the list of certified soil scientists to include wetland scientists. The intent is to create a level playing field. Currently, only soil scientists are certified. The original intent was to certify wetland scientists, hydrologists and other scientists. As a result, when the municipalities have written ordinances that require certification to do wetlands work, soil scientists are put on the list to do this work and the wetland scientists are left off. Wetlands are delineated according to perimeters of hydric soils, the hydric vegetation and the hydrology. Wetland scientists are most often trained and experienced in each of these perimeters. Many soil scientists are not familiar with the three perimeters that are best qualified to characterize only hydric soils. If these lands are not delineated correctly out there in the field, people get hurt. Such certification would benefit the interest of local planning boards in their duties of review and approval of subdivisions and site plans. This bill will add another layer of support for good development in the state of New Hampshire and will make sure that natural resources are protected as well as they can be while still allowing development to go forward. This bill

will allow planning boards and the general public to be assured that the person performing wetlands delineation is technically and practically qualified to do so. Thank you.

Adopted.

Senator Whipple offered a floor amendment.

1997-1503s

08/09

Floor Amendment to HB 197-FN

Amend section 1 of the bill by replacing it with the following:

1 Regulation of Natural Scientists; Wetland Scientists Added. Amend RSA 310-A:75 to read as follows:

310-A:75 Purpose. The general court finds it in the best interests of the citizens of the state of New Hampshire to establish the board of natural scientists *to certify and regulate* the [profession] *professions* of soil scientists *and wetland scientists*. This certification is to guard the citizens of New Hampshire and the [profession] *professions* from unqualified practitioners of soil science and *wetland science and* to foster intelligent application of the knowledge of soil properties *and wetland characteristics* in planning and implementing land use decisions *consistent with New Hampshire department of environmental services rules or standards adopted by the board. It is the intent of the foregoing to insure that all wetlands boundaries in the state of New Hampshire are delineated to the criteria prescribed by RSA 482-A or RSA 485-A and impacts within such wetlands shall be solely permitted and regulated by the New Hampshire department of environmental services as prescribed by RSA 482-A or RSA 485-A.*

Amend section 8 of the bill by replacing it with the following:

8 New Paragraph; Septic Design. Amend RSA 310-A:79 by inserting after paragraph III the following new paragraph:

IV. For the purpose of septic system design, nothing in this section shall prohibit permitted septic designers from performing work under applicable sections of RSA 485-A so as to maintain the septic design practice of delineating slopes, hydric soil, and wetland boundaries and the siting of wells, buildings, and other related improvements with respect to such boundaries, as they are allowed by permits issued by the New Hampshire department of environmental services. For this work a municipality should not require qualifications different from those established pursuant to applicable sections of RSA 485-A.

Amend section 26 of the bill by replacing it with the following:

26 Active Wetland Scientists. Any person who, on the effective date of this section, is actively engaged in the practice of wetland science, as described in RSA 310-A:76, may apply, for one year after the board's adoption of rules relative to wetland scientists, to the board for certification without examination. The board shall approve such application, provided the applicant meets the requirements under RSA 310-A:84, II-a. Workshops in any of the referenced environmental sciences will be counted towards the combined semester hours. Twelve and one-half hours of study in a workshop or in a credit or non-credit course relates to one semester hour. The board may waive 6 combined credit or non-credit semester hours for each one year of experience. A total of 18 combined credit or non-credit semester hours may be exchanged for a total of 3 years' experience. For the purposes of this section, active practice and one year of experience

shall be interpreted as being 100 cumulative hours of work in wetland science. Hydric soil boundary determinations shall be considered actual field experience.

SENATOR WHIPPLE: What happened in committee during the hearing, it originally passed to be rereferred by a vote of 4 to 1, then three more votes came in making it 4 to 4. In the meantime, the people who testified in favor of the bill, to be passed, came in and agreed with the opposition to some amendments. We have gotten these two amendments in front of you now. The two amendments basically do two things. 1) It takes away the... it allows the state to have the say in what constitutes a wetland so that you have a statewide system where each community will have the same wetland regulation as far as what determines a wetland as you do now. 2) Is to exempt the septic designers and installers because they are already trained to do this delineation of wetlands. Both of these amendments have been agreed to by the parties involved. Thank you.

Floor amendment adopted.

Ordered to third reading.

Senator F. King in favor of HB 197.

HB 187-FN, relative to groundwater monitoring for pesticides. Finance Committee. Vote: 6-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: House Bill 187 relative to groundwater monitoring for pesticides was referred to Finance from the Environment Committee. This bill allows the Pesticide Control Board and the Division of Pesticide Control to develop plans for the protection of groundwater from certain pesticides. It will be funded through a fund established in RSA 430:34, V. The Department of Agriculture indicates that this bill may increase state restricted expenditures by up to thirty thousand dollars in FYI 98 and each year thereafter. The increased expense will be funded by a fee already deposited into a dedicated fund for this purpose. The Senate Finance Committee recommends this bill as ought to pass. The money for this is in the budget.

Adopted.

Ordered to third reading.

HB 582-FN, relative to Medicaid rate setting. Finance Committee. Vote: 6-0. Ought to pass with amendment, Senator Fraser for the committee.

1997-1397s

01/09

Amendment to HB 582-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The general court recognizes home health services as one means to provide health care to medicaid-eligible clients. Medicaid reimbursement rates for home health services have not been adjusted since 1989, and the general court finds that these rates are not adequate for certain components of home health services. The purpose of this act is to increase fairness and preserve availability of home health services to medicaid-eligible clients by reviewing current reimbursement rates and establishing a methodology under which those rates will be evaluated on an annual basis.

2 New Section; Rate Setting Methodology. Amend RSA 126-A by inserting after section 18 the following new section:

126-A:18-a Rate Setting for Home Health Services.

I. The commissioner of health and human services shall adopt rules under RSA 541-A to establish a rate setting methodology which considers unit medicaid reimbursement rates for home health services which reflect the average cost to deliver services. The commissioner shall consider the factors of economy, efficiency, quality of care, and access to care, in accordance with guidelines in federal regulations.

II. The department of health and human services shall annually on or before October 1 review unit rates for home health services paid under medicaid which consider the average cost to deliver services.

III. The commissioner shall make an annual report on or before November 1, relative to the rates for home health services, to the speaker of the house of representatives, the president of the senate and the chairperson of the house and senate finance committees.

3 Effective Date. This act shall take effect 60 days after its passage.

SENATOR FRASER: Mr. President, HB 582 relative to Medicaid rate setting was referred to Finance from the Insurance Committee. The bill requires the commissioner of Health and Human Services to establish a Medicaid rate setting methodology for home health services that better reflect the average costs to deliver services. The commissioner will make an annual report relative to these rates to the speaker of the House, the President of the Senate and the chairpersons of the House and the Senate Finance Committee. Finance amended the bill by replacing language to make it clear that the commissioner review and report his findings, not establish and adjust them. The Finance Committee was unanimous in recommending this bill as ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 511-FN, requiring health insurers to provide coverage for certain supplies, services and education necessary in the treatment of diabetes. Insurance Committee. Vote: 6-2. Ought to pass, Senator Squires for the committee.

SENATOR SQUIRES: Mr. President, this bill corrects a long standing inequity in health insurance coverage. Most insurance covers insulin but not the needles and syringes that are required to administer it. It also includes education for treatment of diabetic patients. It accomplishes these goals by broadening health insurers' required coverage to include supplies, service and education for the treatment of diabetes. The coverage for education is covered under the basic insurance policy. All of the coverage for equipment is covered under a policy prescription rider. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 537-FN, relative to the practice of allied health professionals. Insurance Committee. Vote: 7-0. Ought to pass with amendment, Senator Squires for the committee.

1997-1427s

08/09

Amendment to HB 537-FN

Amend RSA 328-F:3, II as inserted by section 1 of the bill by replacing it with the following:

II. The governing boards' chairpersons or their appointees shall make up the board of directors of the office of licensed allied health professionals. The board of directors shall, subject to the rules of the division of personnel, have authority to establish and fill a supervisory position at labor grade 20 and technical and clerical positions to run the office's business in an efficient manner.

Amend RSA 328-F:15 as inserted by section 1 of the bill by replacing it with the following:

328-F:15 Fees. The board of directors shall establish fees for examination of applicants, licensure, registration, renewal of license, transcribing and transferring records, and other services, including investigations and hearings conducted under this chapter. ***Such fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses for the board for the previous fiscal year.***

Amend the bill by deleting section 2 and renumbering the original sections' 3-60 to read as 2-59, respectively.

Amend the bill by replacing sections' 57-59 with the following:

57 Funding of Positions. In addition to any other funds appropriated to the office of licensed allied health professionals for the biennium ending June 30, 1999, the office of licensed allied health professionals is authorized to fund the positions created in RSA 328-F:3, II and the associated costs with revenues from fees collected by the board of directors under RSA 328-F:13, V. The governor is authorized to draw a warrant for such sum out of any money in the treasury not otherwise appropriated.

58 Administrative Rules Transition. Administrative rules adopted prior to the effective date of this act relative to the practices governed by this section shall remain in effect until amended, replaced, or repealed through adoption of rules by the board of directors as defined in RSA 328-F:2, I and the governing boards as defined in RSA 328-F:2, II.

59 Repeal. The following are repealed:

I. RSA 326-C:1, I relative to the definition of the occupational therapy advisory committee.

II. RSA 326-C:3, I(b), relative to occupational therapy licensure requirements.

III. RSA 326-C:4, III, relative to conditions for occupational therapy licensure.

IV. RSA 326-C:5, relative to temporary licensure of occupational therapists.

V. RSA 326-C:6, I relative to license renewal for occupational therapists.

VI. RSA 326-C:7, relative to sanctions against licensed occupational therapists.

VII. RSA 326-C:9, relative to the board of medicine's duty to administer certain fees.

VIII. RSA 326-C:10, relative to the board of medicine's duty to maintain records related to occupational therapists.

IX. RSA 326-C:11, II, relative to the board of medicine's authority to establish certain fees.

X. RSA 326-C:11, V, relative to the board of medicine's authority to adopt certain rules regarding hearings.

XI. RSA 326-C:12, relative to the occupational therapy advisory committee.

XII. RSA 326-C:13, relative to penalties for violation of certain laws governing occupational therapists.

XIII. RSA 326-E:1, I, relative to the definition of the respiratory care advisory committee.

XIV. RSA 326-E:2, relative to the respiratory care advisory committee.

XV. RSA 326-E:3, I, relative to the board of medicine's rulemaking authority regarding license application.

XVI. RSA 326-E:3, V, relative to the board of medicine's rulemaking authority regarding fees.

XVII. RSA 326-E:3, VII, relative to the board of medicine's rulemaking authority regarding hearings.

XVIII. RSA 326-E:6, relative to temporary permits for respiratory care practitioners.

XIX. RSA 326-E:8, relative to the term of licenses for respiratory care practitioners.

XX. RSA 326-E:9, relative to disciplinary matters and unprofessional conduct in the practice of respiratory care.

XXI. RSA 326-E:10, relative to hearings and reinstatement of licenses with respect to suspension and revocation of licensure to practice respiratory care.

XXII. RSA 326-E:11, relative to requiring that respiratory care practitioners be licensed and exemptions from such requirement.

XXIII. RSA 326-E:12, relative to limitations on licensure for those persons licensed to practice in fields other than respiratory care.

XXIV. RSA 326-E:13, relative to making certain practices related to respiratory care misdemeanors.

XXV. RSA 326-F:2, relative to the board of speech-language pathology.

XXVI. RSA 326-F:3, relative to the requirement that speech-language pathologists be licensed to practice.

XXVII. RSA 326-F:4, II, relative to limitations on persons licensed to practice in fields other than speech-language pathology.

XXVIII. RSA 326-F:6, relative to suspension or revocation of licenses to practice speech-language pathology.

XXIX. RSA 326-F:8, relative to renewal of licenses to practice speech-language pathology.

XXX. RSA 326-F:10, relative to provisional licenses to practice speech-language pathology.

XXXI. RSA 326-F:12, relative to record-maintenance duties of the board of speech-language pathology.

XXXII. RSA 326-F:13, relative to the rulemaking authority of the board of speech-language pathology.

XXXIII. RSA 326-F:14, relative to the civil immunity of members of the board of speech-language pathology.

XXXIV. RSA 326-F:15, relative to the investigatory powers of the board of speech-language pathology.

XXXV. RSA 326-F:16, relative to the authority of the board of speech-language pathology to conduct hearings and issue decisions.

XXXVI. RSA 326-F:17, relative to temporary, emergency suspension of licenses to practice speech-language pathology.

XXXVII. RSA 326-F:18, relative to penalties for violations of certain laws governing the practice of speech-language pathology.

XXXVIII. RSA 326-G:1, I, relative to the definition of the advisory committee on athletic trainers.

XXXIX. RSA 326-G:3, relative to the practice of other professions by athletic trainers.

XL. RSA 326-G:4, relative to the advisory committee on athletic trainers.

XLI. RSA 326-G:5, relative to the duties of the advisory committee on athletic trainers.

XLII. RSA 326-G:6, relative to the civil immunity for members of the advisory committee on athletic trainers.

XLIII. RSA 326-G:7, I, relative to the board of medicine's authority to adopt certain rules regarding license application.

XLIV. RSA 326-G:7, IV, relative to the board of medicine's authority to adopt certain rules regarding fees.

XLV. RSA 326-G:9, relative to requirements for temporary certification as an athletic trainer.

XLVI. RSA 326-G:11, relative to expiration and renewal of certificates to practice as an athletic trainer.

XLVII. RSA 326-G:12, relative to suspension, revocation, or refusal to issue certification for athletic trainers.

XLVIII. RSA 326-G:13, relative to the board of medicine's authority to conduct hearings related to athletic trainers.

XLIX. RSA 326-G:15, making it a misdemeanor for a person to violate certain laws governing the practice of athletic training.

L. RSA 328-A:1, VII, relative to the definition of the physical therapy advisory committee.

LI. RSA 328-A:5, I, relative to renewal and expiration of licenses to practice physical therapy.

LII. RSA 328-A:6, relative to the board of medicine's authority to adopt certain administrative rules regarding fees.

LIII. RSA 328-A:7, relative to the board of medicine's duty to maintain certain records and to keep a register of all persons licensed to practice physical therapy.

LIV. RSA 328-A:8, relative to the physical therapy advisory committee.

LV. RSA 328-A:9, relative to the board of medicine's disciplinary authority over physical therapists.

LVI. RSA 328-A:13, relative to temporary licensure to practice physical therapy.

LVII. RSA 328-A:14, I, relative to the board of medicine's authority to adopt certain rules regarding the advisory committee.

LVIII. RSA 328-A:14, III, relative to the board of medicine's authority to adopt certain rules regarding fees.

LIX. RSA 329:9, X, relative to rulemaking authority of the board of medicine regarding occupational therapists.

LX. RSA 329:9, XI, relative to rulemaking by the board of medicine regarding physical therapists.

LXI. RSA 329:9, XII, relative to rulemaking by the board of medicine regarding athletic trainers.

60 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill replaces and modifies certain laws governing the practice of athletic training, occupational therapy, respiratory care, physical therapy, and speech-language pathology. The bill establishes governing boards for each of these areas of practice and a board of directors consisting of the chairpersons of each of the governing boards. It imposes certain duties and gives certain authority to the governing boards and the board of directors, respectively, for the purposes of regulating these professions.

The bill also gives the board of directors the authority to establish and fill one supervisory position and other technical and clerical positions.

This bill also makes certain provisions of law gender neutral in accordance with RSA 17-A:6.

SENATOR SQUIRES: This bill establishes an office of licensed allied health professionals that oversee the governing boards in the fields of athletic training, occupational therapy, respiratory care, physical therapy and speech language pathology. This will allow for better regulation of the allied health professionals in the state. This bill consolidates the boards for the allied health professionals and takes them out from under the board of medicine. There is an executive director position created in this bill that will be funded as the bill is amended through fees. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 700-FN-L, relative to the renovation of regional vocational education centers and expanding an existing appropriation to include such renovations. Education Committee. Vote: 3-2. Ought to pass with amendment, Senator Larsen for the committee.

1997-1453s

10/02

Amendment to HB 700-FN-LOCAL

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Application. A school district which has completed renovations of approved regional vocational centers shall be entitled to renovation grants under RSA 188-F:3 as amended by this act, provided the renovations were completed no earlier than July 1, 1996.

AMENDED ANALYSIS

This bill authorizes grants for the renovation of regional vocational centers, as well as for the construction of such centers, and expands an existing appropriation to include such renovations.

The bill also provides that a school district which has completed renovations to an approved center no earlier than July 1, 1996, shall be entitled to such grants.

SENATOR LARSEN: TAPE INAUDIBLE money for the construction of regional vocational education centers. I just had the senate attorney look up the language of that construction appropriation. In that language is what you see in the bill authorizing the construction of regional vocational educational centers, an amount not to exceed eighty-five million dollars. That is in current statutes. What this bill does is that it expands the scope to allow the disbursement for renovation of the centers. Some of the vocational centers in your districts are aging. They were built years ago. Some are as old as twenty years. This construction money was established in 1973, and since that time, many of these centers have aged to a point where renovations are now needed. It is better policy for us to encourage renovation than it is for us to encourage the continued construction through our aid payment. This bill allows renovations to occur as well as construction. The bill has been amended to allow the Regional Vocational Education Center in Concord to apply for renovation funds as well. Those renovation funds were just... the renovation in Concord was just completed last December. The Concord school district

just finished that recommendation and it makes all of these school districts eligible for aid and they must apply for these grants through the state Department of Education. It does not authorize increased expenditures other than what is existing in current statute. As I said, current statute says not to exceed eighty-five million dollars and this adds the word "renovation" so we are encouraging renovation that is less costly than new construction. The committee recommends ought to pass as amended.

SENATOR D. WHEELER: Senator Larsen, will this bill allow those regional vocational centers to apply for up to two million dollars each?

SENATOR LARSEN: The language that we are amending doesn't limit or delineate the authorization of money. It is a grant program administered by the Department of Education. They can only grant what funds they have available. I was just trying to reach the Department of Education to get clear what funds are available through that fund. A great deal of the money has already been spent, but it allows for renovation grants as well as construction grants.

SENATOR D. WHEELER: Senator Larsen, what do you expect full funding of this entitlement to be?

SENATOR LARSEN: The current statute limits it at eighty-five million dollars. That statute was written in 1973 and there have been in 1993, they substituted eighty-five million dollars for \$79.5 million. There is a whole history in the statutes regarding the funding appropriations, but it is limited by statute and this bill does not increase expenditures, but it allows for renovations. Use of the money for renovations instead of a state policy that encourages continued construction.

SENATOR D. WHEELER: I don't think that you answered my question. What do you expect the full amount of requests will be from the centers across the state?

SENATOR LARSEN: They will have to compete as with any grant application to the state Department of Education. We never heard exactly what that would be, but, I believe that as a matter of state policy, what we want to do is to encourage that renovation of the older centers. We want to encourage renovations, we don't want to encourage further construction. It makes fiscal sense for the state to encourage the renovation.

SENATOR D. WHEELER: Thank you, Senator Larsen.

SENATOR FRASER: Senator Larsen, would you agree with me, and I think that you have already said, this but I want to be sure that I understood you, that the renovation would be a lot less expensive than new construction?

SENATOR LARSEN: It is dramatically less expensive and it keeps the investment that the state already made, it keeps it healthy and useable instead of deteriorating to a point where we have to abandon it.

SENATOR BLAISDELL: Senator Larsen, isn't it true that to answer Senator Wheeler's question, that you are really not even going to know until these people apply for these grants and that is why I am sitting here as a representative of Finance looking at all of these bills with FN's on them. I cannot even determine what this is going to cost, so that is why I really don't know what Finance would even look at. It is going to take quite a bit of time to be able to look at this. So unless they apply, you will not even know how much. I think that Senator Fraser hit it on the nose.

SENATOR LARSEN: That is true. As I say, the statute puts a cap of at least eighty-five million dollars and I am having trouble, it may be \$79.5. There is a cap in the statute so it will not exceed that cap and you would hear about it if they did.

SENATOR RUBENS: I rise to speak against the ought to pass motion. We should be very aware of what we are doing here by adding the word "renovation." We are creating a new entitlement for spending initiatives or requests equal to... if you read the fiscal note carefully, you will see 23 times \$2 million, you see a forty-six million dollar entitlement that we are voting on here. We should be aware of this. The initial concept of the vocational center building aid program was to pay for 100 percent of the cost of construction of new facilities, but for the districts to pick up the cost of renovations after they are constructed. At present, the state provides 30 to 55 percent building aid for the reconstruction of those buildings. So it is not that the state is not providing assistance for the upgrade of the regional vocational educational centers. Additionally, we heard in testimony on this bill, by the Department of Education and they are now studying this problem, the original concept of the regional vocational education centers was that they would be regional centers and that students would come in, in-bound, from so-called sending districts in the region to the extent that the sending districts are sending students to regional centers well below what was initially anticipated. The state department of education is studying this to determine why this is the case. What has happened is the so-called sending districts on whose purpose the state is providing the constructing or potentially the reconstruction of these buildings, those districts are, at their own expense, building their own vocational centers within their own high schools. So the original purpose of these regional vocational centers is not operating as anticipated. Finally, there is no provision in the budget for any of the requests that will come in as a result of the possible passage of this and we know right away, due to an amendment that Senator Larsen added to it, that the city of Concord will come in immediately with a request for a building already renovated. There is no provision in the budget for that. so again, I would argue that this is not a bill without a large fiscal impact. This is a forty-six million dollar entitlement. Thank you very much.

SENATOR LARSEN: I am not sure that you have the right bill. There is no forty-six million dollar million appropriation in this bill. I would like to you to clarify what you are talking about.

SENATOR RUBENS: I am reading the fiscal note, "The department indicates that there are 23 vocational centers in the state. Three are over 20 years old and another three will be over 20 in the year 2000." It is the consensus that it will cost \$2 million to renovate one vocational center. If we add the word "renovation" to this, we multiply \$2 million times 23 and over a time span, which we will see right here, there are six of them in the next handful of years. Six times \$2 million, there is \$12 million in the next few years ago. We have made no provision in the budget for funding these renovations.

SENATOR LARSEN: Is it not correct, that they would have to apply to the department according to what funds are available and there is a statutory limit on what funds are available without further legislative authorization?

SENATOR RUBENS: If you are arguing that we should spend the money, and we don't have the money, then there is no need for this bill.

Obviously anticipated here with the word "renovation" are these entities will come to the state requesting money from the state. That is the obvious intent of the bill, so to argue that there will be no spending impact from this, I think that is obtainable.

SENATOR LARSEN: There is no immediate spending impact. I think it is spurious argument to say that forty-six million dollars when you came down to twelve million dollars as the maximum that it could be by the year 2000. The policy question further is, at what point do we renovate what we have instead of encouraging construction of new? This makes sense to keep the roofs intact and the facilities operating rather than let them deteriorate.

SENATOR RUBENS: I would point out that we have 30 to 55 percent state building aid for those renovations right now, in present law.

SENATOR SQUIRES: I rise in support of this bill. Part of the problem has been that at the time of construction in the early 1970's, many of these centers, the requirements for safety for air circulation were far different than they are today. To upgrade these buildings to where they belong is no simple task. The city that I represent, last year spent fifty-five thousand dollars to renovate the air system. The community cannot sustain that kind of assault on the property tax. It strikes me as though this is somewhat analogous to the state building a road through your community and then saying to the town that they need to maintain it. I revisit my argument of last week that is the commitment of the state of New Hampshire to existing programs before we add new ones. This is an existing program. It serves students who need this education and will form the basis of the workforce in New Hampshire. I intend to support it and I hope that you will too. Thank you.

SENATOR FRANCOEUR: Senator Squires, from testimony at the hearing on this bill, would you believe that currently Nashua has about 550 students that use the vocational center from the city itself and between 55 up to 120 depending on the year, is the only amount of outside students? That this really only benefits those right within the city?

SENATOR SQUIRES: I would believe the numbers, but my argument remains the same. This is tomorrow's workforce.

SENATOR RUSSMAN: I would rise in support of the ought to pass. I think that what is the point of building these things if we are not going to maintain them? All this amendment does is allows the money to be used to maintain them instead of building them. If anything, it is a better deal because we can now maintain them instead of building new ones. They can only do it up to the amount of money that might be funded. So if there is no money in the budget for it, then you don't even have to worry about it. I don't even see where the argument possibly comes from.

SENATOR F. KING: I wasn't going to speak on this bill, but I think that we are missing something. The towns that have these centers, voted to do this. Twenty years ago when I was on the school board in Colebrook, Colebrook voted this program down twice. One of the questions asked at the school meetings, and I think it caused people not to vote for it, was the question, if we build this, who is going to maintain it? who is going raise the money to keep it going? I would suggest that those questions maybe were asked in other school districts at the time, this is a program to get local programs going. This is a lot of money that will eventually have to be coming out of state issued bonds. I just think that we need to recognize that and set our priorities. I think that this is not a high priority. I think building prisons is a higher priority.

SENATOR SQUIRES: Senator King, would you believe that if we had this program we would have an educated workforce and less people going to prison?

SENATOR F. KING: I would believe that's a philosophical discussion that's just been answered.

Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: Gordon, Fraser, McCarley, Whipple, Blaisdell, Squires, Pignatelli, Larsen, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Johnson, Rubens, Patenaude, Roberge, D. Wheeler, Francoeur, Podles, Barnes, Danaïs, Delahunty.

Yeas: 13 - Nays: 11

Adopted.

Ordered to third reading.

HB 564, increasing the cigarette tax. Finance Committee. Ought to pass with amendment. Senator F. King for the committee.

1997-1505s

08/02

Amendment to HB 564-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Cigarette Tax. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [25] 37 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

2 Applicability. This act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 1997, shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

3 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill increases the cigarette tax by 12 cents.

SENATOR F. KING: This is the committee report from Finance on HB 564 that was referred earlier today, it is increasing the cigarette tax. The amendment is being passed out. The amendment that has been passed

out changes some language that was in the earlier version that we had. That section has been deleted. This amendment to HB 564 raises the so called "cigarette tax," from 25 cents to 37 cents that is a 12 cent increase. The committee voted 5 - 1 ought to pass.

Question is on the committee amendment.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, Squires, Pignatelli, Podles, Barnes, Russman, Danais, Delahunty.

The following Senators voted No: McCarley, Whipple, Blaisdell, D. Wheeler, Francoeur, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

Yeas: 14 - Nays: 10

Amendment adopted.

Senator J. King offered a floor amendment.

1997-1496s

08/01

Floor Amendment to HB 564-FN-A

Amend the bill by replacing section 2 with the following:

2 Cigarette Tax. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [25] **50** cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

AMENDED ANALYSIS

This bill increases the cigarette tax by 25 cents.

SENATOR J. KING: I rise in changing the amount of the cigarette tax to twenty-five cents more, which the total would be fifty cents. First of all, I never voted for the cigarette tax since I have been up here, and I am in my ninth year at the present time; however, this year, because of the way the people have responded to me, and I hope to some of you others here, by letters, phone calls and personal confrontations and so on, and not only did they say that they wanted it, but also saying that it is needed. Few people have said why leave it at twenty-five cents more? First of all, originally it was to provide funds for the kindergarten, which was taken care with the amount that was in there. Revenue sharing and some other areas are unable to be funded in the past years. Most important, it provided for a balanced budget, there were no question about it, it provided for a balanced budget. Even if there is going to be a short-fall come June. I also feel stronger and better about the vote that it was given in the House, our legislature right here in New Hampshire. It was a strong vote in favor of the bill. I have changed it, because I want to take it from twenty to twenty-five cents so the original amount will be

there. If any tax had a chance to voice its opinion, this tax had, and it was at twenty-five cents. We all know that during the election campaigns that the bill was spelled out quite clearly what the tax was going to be, and what was going to happen and it did happen. Never have I seen the public support of this ticket tax during a campaign or any other like amount in any other project. The use of this twenty-five cent tax was spelled out to the voters as to what was to be done, and how it was to be spent. I call it as a referendum, one that we should easily support. I call it even better than the referendum, because as a referendum you don't get as many people voting for the referendum as you do for the candidates. Now if you really wish to follow the wishes of the public, which we all like to do, restore the twenty-five cents amount and let's get a balanced budget. Thank you.

SENATOR F. KING: Senator King, cousin John, I would be interested to know in how you would propose to use the extra twenty-three million dollars, that the difference in this tax would generate? What is the purpose of this money other than to raise taxes?

SENATOR J. KING: I didn't hear about any twenty-three million dollars, but if there is we have rainy day fund which a few years ago, everybody was concerned about it. I hope that there is still concern. We have some of the other areas that haven't been addressed like residential care, I hope that is going to be addressed adequately. I could go on and name a few others, but I won't. I would worry about that. I hope to have a surplus, rather than to have a deficit.

SENATOR F. KING: Is your answer, if we make the money available, you will find a way to spend it? Is that your answer?

SENATOR J. KING: No. My answer is, first of all, if there is a surplus, and some were saying that there wasn't enough to cover it originally, but if there is a surplus, we do have a rainy day fund that can hold it. The other answer is to address some of the issues that she has done with her budget, that hasn't been addressed for the last several years, and I just mentioned a few of them.

SENATOR F. KING: Thank you.

SENATOR HOLLINGWORTH: I know that everyone is hungry and I am sorry for objecting to feeding you, but I just felt that this is such an important issue and I think that we should get it out of the way rather than being in and out of the chamber. Please forgive me for inconveniencing you. I should know better because I have been told that you never make people hungry or they don't vote with you. Hopefully, that will not be the case. I am standing before you today as a member of Finance. When we discussed the 12 cents, I at that time said that I felt that it was important and rather than adjusting the 12 cents that we should look at the whole finance of what we need to fund. The Senate Finance looked at the 12 cents and has some proposals that they have not of yet passed. Some of those proposals would be to make a freeze on state employees and to make other cuts in other state government. I want you to remember that Governor Merrill stood before this body in 1996 and said that "This is a bare bones budget" and that he had held his agencies to support that. Well, Governor Shaheen said to her agencies when they were proposing their budget, she said, "I want you to stay within 96 percent of what your 1997 budget was. In 1999 I want you to come in with 98 percent of what your budget is and to keep it under that" and they did. On top of that, we had a forty-four million dollar audited deficit when

we came into this budget process. Forty-four million dollars. So if anyone wants to talk surplus, I think that it is a good idea if we could have one, and we could put it into the rainy day fund just in case some of the things that we think could happen to us and in the past we have always said that is a good idea. TAPE INAUDIBLE It was based on twenty-five cents that the public, 85 percent of the public supported it. Who else supported it? Well, we have forty-six granite state organizations support a twenty-five cent increase in New Hampshire's tobacco tax. They range from health care organizations to the Lung Association, American Heart Association, the Cancer Association, the Federation of Women's Clubs, the HealthSource of New Hampshire, Henniker's community school board, Home Care Association, Keene... on down the line. You can name them, they are there, everyone that you can possibly think of. Now at the hearing, who came in to testify? A man from Virginia from the Tobacco Institute came in and told New Hampshire that we should pass twenty-five cents. I questioned him about the health care costs, because in New Hampshire we get twenty-five cents for a package of cigarettes. This is from Terry Morton, it says, "For every pack of cigarettes we get a twenty-five cents tax. The health care related costs for each pack is at \$1.68." I asked him how he proposed that we care for the health care costs that we have associated because of it? Well, he said, "They die younger so that you don't have to take care of them later in life." Well, you know, that is pretty absurd to me, because not only do they die younger, but they also are less productive at work. We do pay for them. Every penny that we can increase cigarette tax, we are going to prevent our young people from smoking. I think that that is why the outcry from the public supported the twenty-five cents. They didn't care how we spent it, what they wanted was twenty-five cents. Every letter that I have received has said that twenty-five cents is the only thing that is acceptable. I have a study that I was involved in way back, many, many, years ago, and it talks about teenage smoking and what the effects are on teenagers. If any of you are interested in reading what the cost is, and the effect of it, I think that it is real important that you look at those numbers. What will happen if we don't pass twenty-five cents? I have stated that I think that there will be cuts none of you or maybe some of you will find acceptable. But there is not a public outcry for us to not to pass twenty-five cents. Whenever in your lives, have you seen every organization, the BIA, all of the other people coming forward, the Medical Association, the Nurses Association, begging you to pass a tax? Never again in your lifetime will this ever happen. The opportunity is there. The federal government is there telling us... every time that you pick up a newspaper or the television, they are telling you that tobacco is addictive. If we can prevent kids from smoking, we can change what the cost is to the state of New Hampshire. So it is not the twenty-five cents taxes. It is what having the twenty-five cent tax is going to pay for and what twenty-five cents will do to prevent those young people from smoking. I am not going to hold you anymore. That is basically all that I have to say.

Recess.

Senator Barnes in the Chair.

SENATOR GORDON: What a difference a year makes. If some of you were here last year, I stood in this very same place last April, and said that what we needed to do was to increase the cigarette tax to pay for kindergarten and to pay for our special education costs. All that I asked for at the time was that we raise the tax 11 cents. This body defeated

that 15 - 9. So when I look at 12 cents, I am not looking at 12 cents as a defeat. I am looking at 12 cents as a victory. The other concern that I have, and I want to express, is that I would vote for a higher cigarette tax. I would vote on a heart beat if I thought that money was going to go where I think that many of us thought it was going to go when the governor ran on the basis of the cigarette tax. That was directly into education. I had been a supporter of having a special fund for monies for education. If that tax money went into education, I would be voting for this amendment, the twenty-five cents, to send that money directly into education to be used only on education, I don't have a problem with that. But what this body has done for whatever reason, has decided that it is just going to raise a tax and pour that tax money into the general fund. It is not money... this cigarette tax is not money for education. This is money for the general fund. As long as the legislature is going to take that position, then I am going to vote for the minimum amount that we need in order to provide a balanced budget, on the programs that we decide or elect to put into that budget. That is why I am supporting the 12 cents. As I said, I would be happy to support a higher amount if I knew that money would be going directly into supporting the educational programs that I believe in. Thank you.

SENATOR HOLLINGWORTH: Senator Gordon, if we were to amend this to say that the money would go to education... as you well know, that there is money going to education in this budget, there is more money for the university system and there is more money for the vocational technical system, there is more money for aid to cities and towns, which we hope will lower their property taxes, which we know it will help them to pay for education on the local level. Also we have, as I just stated before, the high costs of our medical costs, that we have to pay for. So if you were to amend the twenty-five cents, would you be willing to do that, then perhaps if you made it broad enough so that we could cover all of those things, you could gain support for that? Would you be willing to amend that?

SENATOR GORDON: All of the programs that you have mentioned, are programs that are currently funded through the budget process and generally out of the general fund. The Finance Committee is putting together a budget that includes those programs. We are going to be looking for a way of funding that. At this point in time, I have been assured by the Finance Committee that a 12 cent tax is going to fund the programs that the legislature has thus far adopted. As long as only 12 cents is needed to pour into the general fund, that is what I am going to vote for. If it is determined later that other programs are to be added in the Committee of Conference, and a higher tax is needed, then we will address that at the time, but right now, based upon what I have been informed of from the Finance Committee, 12 cents is what we need and 12 cents is what I will vote for.

SENATOR HOLLINGWORTH: Senator Gordon, are you aware that the amendment that we just passed took out cigars, and the LBA's office said that the numbers therefore mean that there will \$1 million each year, so in fact, the cuts that we had yesterday, still we find until we meet again, we need to come up with another million each year?

SENATOR GORDON: I believe that you were at the same Finance Committee meeting that I was just in. I believe that I asked Senator King the question at that time, whether or not the budget would still be balanced if in fact we appropriated the 12 cents? He indicated to me that, in fact, he believed that it would. I am relying upon his judgment in the matter.

SENATOR J. KING: I was one of those that voted against you last year.

SENATOR GORDON: I know that you were.

SENATOR J. KING: I just wanted to say that I gave my reasons why I changed my mind. The other question that I have is, that you say that it isn't needed. The question is, are you going to have cuts in the present budget that make it balance? The one that you are working on? Are you going to have cuts in different areas?

SENATOR GORDON: I believe that in a normal budget process that you might have additions to the budget and cuts in the budget.

SENATOR J. KING: The other question that I have is, are those programs needed or have we had them unnecessarily for so long that we don't need them anymore? What is the basis that you are going to use? Are they needed or not needed?

SENATOR GORDON: I think the answer to your question is this, this is from my perspective on a tax that is going to be poured into the general fund. My perspective is this; that we should not decide how much we are going to tax and then decide how we are going to spend the tax funds. What we should do is, that we should decide on the programs that we want to fund and then decide how much tax we need to raise to fund those programs. I believe that that is my approach and I believe that is what we are doing in this case.

SENATOR J. KING: You didn't answer my question though. Are the programs that we might possibly cut programs that we don't need? I hope that when we see the cuts that they are the ones that we really don't need.

SENATOR GORDON: I think that if what you're asking me is are there programs that we don't need that may be cut? I think "need" is in the eye of the beholder. The fact is, that we all have an opportunity in this body to vote on whether we think that it should be included in the budget and not included in the budget.

Recess

Senator Delahunty in the Chair.

SENATOR SQUIRES: In my opinion, on the other end of the line, when one deals with patients with tracheostomies, with heart disease, with lung cancer, people who cannot breathe and the things that I did, a lot of amputations. The only thing worse than doing an amputation is to have one. Virtually every one of those patients with the exception of the diabetic patient, is the cigarette smoker. If this bill, if this tax, although in fact, it is a user fee, no one is compelled to pay this money. This is a user fee that we have woven into the rhetoric of tax. The fact remains that no one has to pay it. If this increase will prevent someone from starting down this road, whose ending is something that I am very familiar with, then it is a good thing. Thank you.

SENATOR COHEN: I must tell you that I went into the Post Office in the very republican town of New Castle and the postmaster said to me, "You know, I smoke two packs of cigarettes a day." I thought, oh boy, here it comes. He said, "But if that money will go towards kindergarten and education and will help keep kids off of cigarettes, I support it twenty-five cents, absolutely, all of the way." People throughout my district are stopping me on the street constantly, aside from all of the letters that I have received, absolutely in support. People come up and say, "Don't accept anything less than twenty-

five cents. We have to keep kids off of cigarettes and it works." The addicts especially. They know how difficult it is to stop smoking, and they know, they care very much to keep other people from becoming cigarette addicts as well. They are especially motivated. Raising the tax works to keep kids off of cigarettes. It also is necessary for the state of New Hampshire. Standard and Poor and Fitch Investor services pointed out that Governor Shaheen's proposed cigarette tax increase would correct the recurring operating budget deficits of the last two years, and that her proposal plays an important role in the decision that they made to maintain the state's "AA- plus" ranking of New Hampshire's bonds. This is vital for economic future. I will ask you what the motivation is to go down to 12 cents? Is it fiscal soundness? Absolutely not. Is it to stop kids from smoking cigarettes? Certainly not. Is it for efficient state services? Clearly not. I hate to say it, but you know and I know, that the motivation for 12 cents as opposed to twenty-five cents is political. Let us do the right thing and pass twenty-five cents.

SENATOR LARSEN: In my mind there are three good reasons, three really clear reasons to vote for the twenty-five cents tax increase. 1) it reduces youth smoking. 2) It reduces state budget shortfalls and strengthens our bond ratings. 3) It reduces our property taxes by increasing aid to cities and towns and sending back that revenue sharing to those cities and towns and providing kindergarten aid. What better three reasons could you have before you? I urge you to vote for this amendment.

SENATOR RUSSMAN: I rise in support of the twenty-five cents. Last year I voted for the increase and I voted for every cigarette tax increase since I have been here. I did not vote in favor of the business enterprise tax, and if this would carry, I will be happy to present an amendment after lunch that would eliminate or drop the BET and the BPT by a like amount of what we would raise of that other 13 cents, because I think that we are saving people's lives here and the others are taxed in the business community and affecting jobs and the growth in New Hampshire. So certainly, I think that wherever the money goes here, it is killing my constituents and I am happy to vote for it. But certainly in those other areas we could reduce those taxes by a like amount, and certainly do all of our constituents a favor in the business community particularly and create some jobs at the same time. I think this is an example of the legislature being behind the curve in terms of what the public wants and how it would prefer to be taxed. I urge you to vote for the twenty-five cents.

SENATOR JOHNSON: Senator Russman, I wasn't going to ask this question, but everyone is talking about discouraging the youth from smoking. Would you believe that in my 19 years on the Inter Lake school board that I identified with a lot of the students, and I have been polling those students? They have more spendable income than I do on a fixed income and twenty-five cents is not going to make a difference?

SENATOR RUSSMAN: I guess that is a question. I don't believe that. I believe that you asked them, but I don't believe that it isn't going to stop some people from smoking. Even if it is just a handful, it is a long way and a step in the right direction.

SENATOR PIGNATELLI: Senator Russman, I am not sure if you can answer this, but perhaps if you can't maybe someone else will yield. I

have recently received some information about our bond rating in the state, maintaining a "AA-plus, plus" rating and that bonding were based upon the twenty-five cent cigarette tax being passed. I am wondering if you could comment on that and that if you can't perhaps someone else might be able to?

SENATOR RUSSMAN: I am interested in the bond rating of the state, but to echo what Doctor Squires said, it is the health thing that I am concerned about, it ought to be raised up and we ought to lower the other taxes that I talked about.

SENATOR PIGNATELLI: I certainly agree with that.

SENATOR WHIPPLE: Senator Russman, as I understand what you said, if you could pass this twenty-five cent tax, that you could convince a couple of your colleagues who haven't already committed to come over and vote for that, that you would put an amendment in to reduce the business profits tax and the business enterprise tax by the like amount that we raise from 12 cents to twenty-five cents thereby helping out economic development in the state of New Hampshire. Is that what you said?

SENATOR RUSSMAN: I would do it right after lunch.

SENATOR WHIPPLE: Thank you.

SENATOR MCCARLEY: I had actually a rather long speech and apparently didn't put my hand up first, so therefore, going this near the end, most of what I had to say has been said, but I guess, again, speaking as not having been through this process in the past, and having read about this process in the past several years ago, what I had seen on the outside has been talks about balanced budgets and how they were working. What I have seen is where we are now, which is not in that position. I listened, I followed very closely in the House, the budget discussions. I've spent some time looking through the governor's budget, and what I heard is that with the twenty cent tax increase, there is still a couple of programs that, I think, sound very reasonable to consider funding that was not funded. Now I am not on the Finance Committee. I haven't had the opportunity to see the wholesale cuts that apparently have been identified. Because I haven't done that, and while I have infinite trust in my fellow senators, I have to say that I am concerned that the twenty cents was not going to be enough. I am prepared to say that I think that the kinds of things that I saw in the original budget in the House, are the kinds of programs that I can support and that I ran on. Some of those programs have a whole lot to do with what we are doing about older people. I think that is a major concern. I think money coming back to cities and towns is a major concern. While I heard a couple of months ago that there is no way that we could have found more money for Foundation Aid, it would have been impossible because of what we are facing as a state, it appears that is no longer true, but I would suggest that we are going to need the extra nickel from the House budget. I would ask you to support this vote of twenty-five cents.

SENATOR HOLLINGWORTH: Senator McCarley, the Center for Disease Control and Prevention in 1996 stated that New Hampshire was the lowest excise cigarette tax of all of the New England states. Also it has the third highest teenage smoking rate in the nation. Does that surprise you?

SENATOR MCCARLEY: Based on what I see in terms of high school kids and smoking, it does not surprise me that we do have a high rate. I think while there has been enormous debate on all of the statistics that have turned up on this, I would argue that this is a bill about protecting 8, 9, 10 and 11-year-olds and that is what we should be doing.

SENATOR RUBENS: Very briefly, I rise to indicate that like Senator Russman, however, I would support a twenty-five cent increase if linked directly in the same amendment there was a coincident reduction in the interest and dividend tax which is a broadly based personal income tax which my constituents are complaining mightily about. I will not vote for this because I don't see the direct link to the reduction in that tax. If it was a way to accomplish that, I would.

Senator Blaisdell moved the question.

Adopted.

Question is on the floor amendment.

A roll call was requested by Senator Cohen.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: McCarley, Whipple, Blaisdell, Squires, Pignatelli, Larsen, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Roberge, D. Wheeler, Francoeur, Podles, Barnes, Danaïs, Delahunty.

Yeas: 11 - Nays: 13

Floor amendment failed.

Ordered to third reading.

HB 440-FN, changing the legislative mileage formula. Internal Affairs Committee. Vote: 3-0. Inexpedient to legislate, Senator Barnes for the committee.

SUBSTITUTE MOTION

Senator Barnes moved to substitute ought to pass for inexpedient to legislate.

SENATOR BARNES: I move HB 440 as ought to pass from what you have in your calendar. The committee would like to see this as ought to pass. There were only three of us there when the vote was taken. Since then I have talked to members of the committee and some other folks that came in later to talk to us. It made good sense to the three of us that voted on this to go the other way. We would appreciate it if we could get the rest of the Senate to agree with the substitute motion of ought to pass.

Adopted.

Ordered to third reading.

HB 457-FN, requiring all state agencies, departments, and commissions in all 3 branches of government to have a presence on the New Hampshire automated information system by January 1, 1998, and designating the state library as the official repository of state government information. Internal Affairs Committee. Vote: 5-0. Ought to pass with amendment, Senator Blaisdell for the committee.

1997-1434s
05/01

Amendment to HB 457-FN

Amend the title of the bill by replacing it with the following:

AN ACT requiring all state agencies, departments, and commissions in all 3 branches of government to have a presence on the New Hampshire automated information system by January 1, 1998, and designating the state library as the official clearinghouse of state government information.

Amend the bill by replacing sections' 1-3 with the following:

1 Statement of Purpose. The purpose of this act is to build on the historical role of the New Hampshire state library as a compiler, indexer, and disseminator of state government information. It is also to provide a mechanism for state agencies to make more government information available electronically. The intent of the legislature in enacting this bill is to update and enhance the New Hampshire automated information system.

2 Official Clearinghouse of Public Information; State Library Designated. Amend RSA 201-A:1 to read as follows:

201-A:1 State Library. There shall be a state library as provided for in RSA 21-K:5. *The state library shall be the official clearinghouse of state government information.*

3 New Paragraph; Definition Added. Amend RSA 201-A:21 by inserting after paragraph I the following new paragraph:

I-a. "Official locator service" means the system or method by which state government information is disseminated to the public via a telecommunications network or successor technology. This locator service shall identify, locate, and describe publicly available state government information resources, including electronic information resources.

AMENDED ANALYSIS

This bill:

I. Designates the state library as the official clearinghouse of public information.

II. Requires that, on or before January 1, 1998, every state department, agency, institution, and commission shall have a presence on the New Hampshire automated information system.

Define the term "official locator service."

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill, as amended, designates the state library as the official clearing house of public information and requires all departments, agencies and institutions and commissions to have a presence on the New Hampshire Automated Information System. It is important for these web sites to be set up so that the citizens of New Hampshire can have access to government. This bill is only the first step and requires the web site with a minimal amount of information. These various departments can be assisted in setting up a web site by the state library or the Office of Information Technology that will help minimize the cost. There is not much cost involved in this. The committee recommends the bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 609-FN-L, enacting the Uniform Interstate Family Support Act (UIFSA) and relative to child support. Interstate Cooperation Committee. Vote: 3-0. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: This provision is intended to make child support regulation a reality. UIFSA is a requirement of the federal government as part of the welfare reform laws. This bill will make the collection of child support easier when two parties do not reside in the same state. If New Hampshire does not implement the provisions of this bill, the state will be subject to several penalties. If you give me a minute I will pull those out. The unemployment compensation offset tax credit is worth \$165 million to private and public employers. The Department of Employment and Security, if we do not adopt HB 609, would risk losing \$8.6 million of administration grants. Up to five percent of the state's welfare block grant would be lost if we do not adopt HB 609 and that would cost the state \$1.9 million and \$10.4 million would be lost in title IV-d child support funding. The state needs this legislation to make sure that families and children who are owed child support can receive it. This will also save the state money because there are times when people who don't receive their child support are forced to turn to welfare or state services for assistance. The committee recommends HB 609 for the fiscal health of this state and the health of the families of this state, as ought to pass.

SENATOR PODLES: Senator Larsen, would you believe that thirty-five states already have this?

SENATOR LARSEN: Yes, I would believe that. That is information that we received from the department and it is accurate.

SENATOR FRASER: Senator Larsen, do I understand that the deadline for our adopting this legislation is 10/1/97? And if we don't adopt it by that time that we will forfeit all of the funds that you have already alluded to?

SENATOR LARSEN: I would believe that, and I would also add that if we don't adopt it, we are endangering all of those federal funds and put our state at fiscal risk.

SENATOR D. WHEELER: I rise in opposition to HB 609. I strongly protest the blackmail position that the federal government has put the state in. I want the public to clearly know what is in this bill. This bill gives the Department of Health and Human Services subpoena powers, which I believe belong only in the courts. The bill gives Health and Human Services the power to be basically, judge, jury and prosecutor over child support matters and I don't think that is fair. Also in the bill, it would require every employer to report all of their new hires to the Department of Labor who will in turn share that information with the Department of Health and Human Services, but also require all contractors, every time that they do a job over \$2,500 to report that income to the Department of Labor and Health and Human Services. I don't think that is right. This bill requires your social security numbers, fines people who do not abide by this. It gives immunity to the people giving the information. Because it gives your social security numbers, this bill allows that the Department of Health and Human Services to look into all of your personal financial records, and I don't believe that is right. That belongs selectively in the courts when there is a child support matter. That information does not belong in the hands of Health and Human Services. I think that this is a very oppressive bill and would ask you not to be blackmailed by the federal government and try to pursue some other avenues of waivers and things such as that.

SENATOR DANAIS: Mr. President, I rise in support of HB 609. I do that from the perspective that I am the designee in the Employment Advi-

sory Council. In that role, we have a direct relationship with the outcome of HB 609. Just to give you some facts from the Employment Advisory Committee and the commissioner, if this bill does not pass, the employers will lose \$165 million in credits per year as well as the department will lose \$19 million in federal grants per year. This bill is very, very extensive. I don't disagree with some of the comments that Senator David Wheeler has made, but one thing that we should remember is that everything that is in this bill is a federal mandate. They are trying to put together a reform program and they are mandating the states that you either conform or you risk sanctions. As Senator Podles mentioned a few minutes ago, thirty-five states have passed legislation conforming to the federal standards. They have passed this legislation because they are at risk of some multi, hundreds of millions of dollars in sanctions. So it is a very, very intensive bill, but it is necessary for the state of New Hampshire to preserve the federal grants and monies that we are currently receiving. So with that in mind, I stand in support of HB 609.

SENATOR D. WHEELER: Senator Danaïs, TAPE INAUDIBLE why specifically one section of the bill to that specific sanction of the bill?

SENATOR DANAIS: Well, it is divided into two sections. It is divided into the Employment Security Advisory Council in the Employment Security Division and in Health and Human Services. Those are the two agencies that are going to be affected. As far as the sanctions, I believe that there are different sanctions for the different programs that this bill would affect.

SENATOR D. WHEELER: Thank you, Senator.

SENATOR DANAIS: You are welcome.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

HB 236-FN, to allow a person who is being stalked to obtain a protective order. Judiciary Committee. Vote: 6-2. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: A few years back, I believe in 1992 or 93, New Hampshire made stalking a crime. This bill moves the law an additional step in the direction of affording protection to would-be victims. The Senate Judiciary Committee voted 6-2 in favor of passage. The bill puts a person who is being placed in fear by a stalker, in the same position to obtain a protective order as a person who is the victim of domestic violence. Obviously, some evidence is required before a judge will issue a protective order. If an ex-parte order is issued, then the alleged stalker is entitled to a full hearing before the court within five days. I urge the Senate to pass this bill and send it to the governor for her signature. Thank you.

Adopted.

Ordered to third reading.

HB 367-FN-L, requiring notification to parents when a minor violates the tobacco laws. Judiciary Committee. Vote: 6-2. Rerefer to committee, Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The bill would have required the police departments to notify parents if a minor was charged with a violation

of the tobacco laws. There was a question as to accomplishing this goal. The exact manner of notification was not specified and there was concern about imposing burdens on local police. In addition, notice to the parents might not result in attendance at the court by the parents. The committee desires to review this matter more carefully to determine a more appropriate procedure for utilizing when a minor is charged for a violation of the tobacco laws. Therefore, the committee recommends rerefer to committee.

Committee report of rereferred to committee is adopted.

HB 517-FN, relative to aggravated felonious sexual assault. Judiciary Committee. Vote: 8-0. Rerefer to committee, Senator D. Wheeler for the committee.

SENATOR D. WHEELER: This bill amends RSA 632-A:10-a penalties for aggravated felonious sexual assault. The bill provides that a person convicted once of aggravated sexual assault under certain conditions could be sentenced to life imprisonment or for such a term as the court may order. If the person is convicted of any other section of RSA 632-A:2 the person shall be sentenced to a maximum sentence not to exceed 20 years. The bill also amends the eligibility for early release. The committee determined that this is a very important issue and wants to rerefer it to allow time to prepare better language to deal with the treatment and supervision of sex offenders. We ask you to support us in the motion of rerefer.

Committee report of rereferred to committee is adopted.

HB 50-FN-A-L, increasing aid for kindergarten programs, and establishing a program for the construction of public kindergarten facilities and making an appropriation therefor. Senator Danaïs for the committee. Finance Committee. Ought to pass.

SENATOR DANAÏS: The Senate Finance acted on increasing aid for kindergarten programs, and establishing a program for the construction of public kindergarten facilities and making an appropriation therefor. The Senate Finance Committee earlier today, voted 5 - 2 that HB 50 ought to pass as amended.

Adopted.

Ordered to third reading.

HB 688-FN-A, establishing a committee to study all investigations of the late John C. Fairbanks and other members of the legal profession. Judiciary Committee. Vote: 8-0. Ought to pass with amendment, Senator Podles for the committee.

1997-1457s

09/02

Amendment to HB 688-FN-A

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. There is established a committee which shall study any and all investigations of the late John C. Fairbanks, Attorney Charles E. Chretien, and the late William M. Hibbard. The committee shall consist of 7 members of the house judiciary and family law committee, appointed by the speaker of the house.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect upon its passage.

SENATOR PODLES: House Bill 688 establishes a committee to study all investigations of the late John C. Fairbanks, attorney Charles E. Chretien and the late William M. Hibbard. The committee will consist of seven members of the House Judiciary and Family Law Committee and named by the speaker of the House. The committee shall also consider the scope and the quality of all investigations conducted by the federal, state and local agencies. A judicial conduct committee, the committee shall have the same investigatory power as the general court. The committee shall receive mileage compensation. The committee will also report findings by January 1, 1998. The fiscal note calls for one hundred thousand dollars from the general fund for the purpose of paying costs of the committee, and also the investigations for out-of-state witnesses, and paying the salary of the investigator and attorney. The committee recommends ought to pass with amendment. The amendment changes the effective date to upon its passage. It recommends that the bill be passed with the amendment.

Senator Roberge moved to have **HB 688-FN-A**, establishing a committee to study all investigations of the late John C. Fairbanks and other members of the legal profession, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 688-FN-A, establishing a committee to study all investigations of the late John C. Fairbanks and other members of the legal profession.

HB 722-FN, opting the state out of a provision of federal law relating to benefits for persons convicted of drug-related offenses. Judiciary Committee. Vote: 6-2. Ought to pass, Senator Podles for the committee.

SENATOR PODLES: The Welfare Reform Act personal responsibility and work opportunity reconciliation act of 1996, denies participation in public assistance for those with felony drug convictions; however, states may waive this provision. House Bill 722 does this. The intent is to allow welfare recipients who have drug related convictions to continue to receive benefits. The bill assists families and not the drug addicts. The objective is to prevent felons from flooding local welfare resources if they are denied state benefits. The committee in a vote of 6-2 recommends ought to pass.

Recess.

Out of recess.

Question is on ordering to third reading..

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Fraser, McCarley, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Johnson, Rubens, Patenaude, D. Wheeler, Francoeur, Russman, Danais.

Yeas: 17 - Nays: 7

Adopted.

Ordered to third reading.

HB 724-FN, allowing the office of reimbursements in the department of health and human services to set rates for the multiple DWI offender intervention detention center program. Judiciary Committee. Vote: 4-0. Ought to pass, Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 724 will allow the Office of Reimbursements within the office of Health and Human Services to set charge rates for the multiple DWI offender intervention center program. It allows clients who cannot pay the fees of the program in full, to enter into a repayment contract with the Office of Reimbursements. Clients must provide a financial statement and sign a payment contract. They must also keep the Office of Reimbursements informed of changes of address or financial circumstances. If a client fails to comply with the contract that they have signed, then the office would be entitled to recover collection costs, including attorneys' fees. The bill would also allow the Office of Reimbursements to adjust the rates of the multiple DWI offender intervention program to ensure that the cost of the program is fully funded by the clients who use it. This bill was requested by the Department of Health and Human Services. The Judiciary Committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 735-FN, adding certain conduct to that which constitutes aggravated felonious sexual assault and felonious sexual assault. Judiciary Committee. Vote: 8-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-1454s
05/09

Amendment to HB 735-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to probation and parole officers' authority to enforce criminal laws and adding certain conduct to that which constitutes aggravated felonious sexual assault and felonious sexual assault.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Powers and Duties of Probation or Parole Officers. Amend RSA 504-A:12 by inserting after subparagraph VII(b) the following new subparagraph:

(c) Are exercising authority over non-probationers or non-parolees pursuant to RSA 627.

2 Aggravated Felonious Sexual Assault. RSA 632-A:2, I(k) is repealed and reenacted to read as follows:

(k) When the actor has supervisory authority over the victim by virtue of the victim being incarcerated in a correctional institution or juvenile detention facility and uses this authority to coerce the victim to submit. Consent of the victim under the above circumstances shall not be considered a defense.

3 New Paragraph; Felonious Sexual Assault. Amend RSA 632-A:3 by inserting after paragraph III the following new paragraph:

IV. Engages in sexual contact with the person when the actor has supervisory authority over the victim by virtue of the victim being incarcerated in a correctional institution or juvenile detention facility and uses that authority to coerce the victim to submit.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill expands probation or parole officers' authority to enforce criminal laws to include situations in which such an officer is exercising authority over non-probationers or non-parolees in certain circumstances.

This bill also adds certain conduct by a person in a position of authority over a victim to that which constitutes aggravated felonious sexual assault under specified circumstances and felonious sexual assault under specified circumstances.

This bill is a request of the department of corrections.

SENATOR GORDON: This bill amends portions of the aggravated felonious sexual assault statutes. The sections relate to circumstances where a corrections officer has the position of authority over the victim in the setting of a correctional institution or juvenile detention facility. The bill also amends RSA 504-A:12 that is the law regarding the powers and duties of probation and parole officers. The bill adds to the powers of a parole or probation officer to exercise authority over non-probationers or non-parolees where justified by exigent circumstances. The committee recommends ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 764-FN-L, relative to a person subject to a domestic violence petition applying to purchase a firearm. Judiciary Committee. Majority report; Vote: 5-2, Ought to pass with amendment, Senator Pignatelli for the committee. Minority report; Vote: 2-5, Inexpedient to legislate, Senator D. Wheeler for the committee.

1997-1461s

05/09

Amendment to HB 764-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 New Section; Illegal Attempt to Purchase a Firearm. Amend RSA 159 by inserting after section 3-a the following new section:

159:3-b Illegal Attempt to Purchase a Firearm.

I. No person who is subject to a protective order or restraining order issued pursuant to RSA 173-B:4 or RSA 173-B:6; a foreign order as defined in RSA 173-B:11-b; or pursuant to the court's equitable powers, and who knows that such protective order has been issued, shall attempt to purchase a firearm while the order is in effect.

II. Any person who violates paragraph I shall be guilty of violation for the first offense and shall be guilty of a class A misdemeanor for the second offense.

III. For purposes of this section, "firearm" has the meaning given that term in section 921 of Title 18 of the United States Code.

Amend RSA 173-B:11-c as inserted by section 2 of the bill by replacing it with the following:

173-B:11-c Canceled or Expired Protective Orders. Any court that has issued a protective order pursuant to this chapter shall notify the department of safety of the cancellation or expiration of such order by facsimile machine or electronic means on the same business day upon which such cancellation or expiration becomes effective.

Amend the bill by deleting section 3 and renumbering the original section 4 to read as 3.

AMENDED ANALYSIS

This bill prohibits a person, who is subject to a protective order and who knows that such protective order has been issued, from attempting to purchase a firearm while the order is in effect. The bill makes any person who violates this prohibition guilty of a violation for the first offense and guilty of a class A misdemeanor for the second offense. This bill also requires any court issuing a protective order to notify the department of safety by facsimile machine or electronic means when a protective order has been canceled or has expired on the same business day.

SENATOR D. WHEELER: This bill would affect probably eighty-five thousand New Hampshire residents and perhaps more people who have out-of-state restraining orders or domestic violence petitions. Currently, we have an instant check system. So when someone comes in to purchase a firearm, their name is run to see if they have any such violations, which may be appropriate. This bill would make it a crime to attempt to purchase that firearm when you go into the gun shop and try to purchase that firearm and even have your name checked on that register. There is a federal firearm form already in place that asks you those questions, "Are you subject to a restraining order or are you subject to a domestic violence petition?" If you answer those questions yes, under current federal law, you cannot purchase that firearm. What this bill would do, would make it a crime if you didn't know what the law was and answered these questions, because you have started the process to attempt to purchase a firearm. We already have the federal law in place and it is on the federal firearms form when you purchase the law and it is a federal crime if you lie on the answers to any of these questions. One of them asks you about your mental state, one of them asks if you have ever been on drugs, and then they have these other two questions on the form. So those are federal felonies, so it is already covered by law. It would be prosecuted in the federal courts with federal time and personnel and dollars. If we pass this bill and move it to the state system, it would cost us a tremendous amount of money, plus the provision in the bill that requires the courts to report to the instant check of those restraining orders' expiration dates and such as that. So we would ask you to find this bill inexpedient to legislate. There is already a federal law that covers this situation and works much better than the proposed law.

SENATOR PIGNATELLI: Let me explain briefly why the majority of the committee believes that HB 764 should pass. Under our present laws in New Hampshire there are certain individuals who are not permitted to purchase handguns, included convicted felons and people who are subject to restraining orders. As we know, under our New Hampshire instant record check system, sellers of handguns are required to call for a criminal history check before making the sale of that handgun. We have a big gap in our law, however, because there is presently no requirement that the seller do a criminal history check when selling a firearm other than a handgun. In other words, when selling a rifle or a shot gun. As with all of our rights, none is without some qualification. That applies to the right to purchase a firearm as well. This bill will prevent the sale and purchase of a rifle or a shotgun if the purchaser is subject to a restraining order. It also requires that when the restraining order expires, state personnel notify the instant check system of its expiration. It is the balancing of the law that our committee and the House committee believe needs to be made. The Federal Department of Justice announced three months ago that the federal Brady bill blocked 186,000 illegal handgun purchasers. Most of them related to attempted purchasers by convicted felons; however, two percent or 3600 related to people who

were subject to a restraining order. We, on the committee, hope that the Senate will pass this bill giving potential victims another degree of protection. It may have prevented one killing that occurred in Nashua last fall. In that case, the murderer was rebuffed in this attempt to purchase a handgun, but then bought a shotgun because we allowed it under the law. Let's favor potential victims and close this loophole in this law. Thank you very much.

SENATOR PATENAUDE: This is pretty much the same as SB 195 in regard to requiring the instantaneous check for a rifle or a shotgun. Besides being a huge inconvenience for people who trap shoot or sport because they are going to have to go through this check process and you know that shotguns and rifles are not used very often in crimes, but would you believe that I don't believe that the case that you are saying that it would have stopped TAPE INAUDIBLE restraining order. You are saying that it is not against the law. It is already is against federal law to purchase a shotgun or a rifle.

SENATOR PIGNATELLI: We allow people to purchase shotguns and rifles without doing an instant record check. If you are crazy enough to want to kill someone, you are going to lie on the form when you are purchasing the rifle. We can check now if you are purchasing a handgun. We can say, no, you lied on the form, you cannot purchase a handgun. We don't have that opportunity when someone goes in to purchase a rifle or a shotgun. A rifle or a shotgun kills just the way a handgun does.

SENATOR D. WHEELER: Senator Pignatelli, isn't it true that the federal law kicks in for long arms on the same date as this bill would kick in for long arms on January 1, 1998?

SENATOR PIGNATELLI: My understanding, Senator Wheeler, is that the federal law kicks in on March 1.

SENATOR D. WHEELER: Thank you, Senator Pignatelli.

Question is on the committee amendment.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: McCarley, Blaisdell, Squires, Pignatelli, Larsen, J. King, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Francoeur, Podles, Barnes, Russman, Danaïs, Delahunty.

Yeas: 9 - Nays: 15

Committee amendment failed.

Question is on the motion of ought to pass.

Motion failed.

Senator D. Wheeler moved inexpedient to legislate.

SENATOR HOLLINGWORTH: Senator Podles, to my recollection, this bill before Judiciary had the support of the majority of the Judiciary Committee. In fact, several of the senators that are here today, did not vote for it, that voted for it in committee. We would, well I would like to know, as a member of the committee, what enlightenment have the other members of the committee had so that we could have been informed and shared the change in the decision to vote for this?

SENATOR PODLES: I don't think that we got the information on the federal law until today, this morning.

SENATOR HOLLINGWORTH: I beg to differ with you, Senator Podles. That information was brought to the committee.

SENATOR PODLES: I was not aware of it.

SENATOR GORDON: I would like to address the question that was addressed by Senator Hollingworth.

SENATOR HOLLINGWORTH: I would be glad to have an answer.

SENATOR GORDON: I can't talk for anyone else, and certainly I don't think that it is your intent to embarrass anyone by asking the question, but when we had the committee discussion, there were two parts to this bill. One was the part making it an offense to apply. Then there were two parts following in the bill that had to do with the courts reporting. I thought that I had made it very clear during the hearing that I thought that it was untenable, the procedure that would be required for the courts to report on the termination of restraining orders. As I saw the bill today, I see that the provisions are still in, in regard to reporting. I just do not know how the courts could comply. I assure you that is the reason why I didn't support the committee today.

SENATOR HOLLINGWORTH: I would like to speak to the motion of inexpedient to legislate. As a member of the Judiciary committee, this has happened a couple of times this session. While it isn't my intent to embarrass, neither is it, I think, fair for members of the committee to come into the session and be caught off guard when members of the committee voted one way and then find out that they don't have the support when they get to the floor. As to the change that people may have decided that they didn't hear it, I will say that clearly, the discussion of the federal law being there was brought out. Senator Wheeler brought the legislation, in fact, Senator Wheeler, I am sure that you will attest to that when you stand up to speak. If not, I will ask you that question. Furthermore, Senator Gordon, you addressed the second part of the bill that talks about the expiring of the records. Clearly, we were told at that hearing, and the records will show, that the court currently does that and that they are doing that with handguns and that they don't find it untenable and that they have processed those and they have seen those orders when it comes to handguns. They find that they can do the instant check and that was testified also at the committee hearing. I have no intention to embarrass the other members, but I don't like to see the other Judiciary Committee members embarrassed on a bill that they came to the floor believing that they supported the majority of the committee.

SENATOR FRANCOEUR: Senator Hollingworth, isn't this bill that is currently before us, similar to 195 that this Senate defeated about three weeks ago?

SENATOR HOLLINGWORTH: Senator Francoeur, I wouldn't know. All that I know is that this bill was in front of us at the Judiciary Committee and the vote out of the committee was... the majority of the committee in support and two members opposed to it, yourself and Senator Wheeler.

Inexpedient to legislate is adopted.

HB 276-FN, removing primary petition filing requirements for candidates who do not voluntarily accept campaign spending limitations. Public Affairs Committee. Vote: 4-3. Rerefer to committee, Senator McCarley for the committee.

SENATOR MCCARLEY: The original intent of HB 276 was to consolidate into one day, the filing deadlines for primary election candidacy and primary election petitions. The majority of those who testified on HB 276 as amended by the House, including Representative Pepino, the bill's prime sponsor, opposed the new version of the bill because it did not follow the bill's original intent. Moreover, Secretary of State Gardner testified that since the petition requirement went into effect in 1913 there has been only one significant problem that occurred last year in *Richard E. Kennedy v. William Gardner, et al.* Opponents argue that it doesn't make good sense to allow one lawsuit to dictate the passage of legislation. On the other hand, those who spoke in favor of the bill remarked that primary petitions are unconstitutional in that such petitions create two classes of candidates and an uneven campaign playing field. According to the Plaintiff's Motion for Summary Judgment and Incorporated Memorandum of Law in *Richard E. Kennedy v. William Gardner, et al.*, "The New Hampshire law that only candidates who reject voluntary spending limits must file petitions and pay a filing fee places an impermissible burden on candidates' and voters' access to ballots in violation of both the first and fourteenth amendments." The motion goes on to say that "restrictions - or limitations - to ballot access implicate two fundamental constitutional rights: (1) The right of individuals to associate for the advancement of political beliefs, and (2) The right of voters to cast their votes effectively." The committee realizes the merits of the bill. In the interest of having more time to study the issue, the majority of the committee hopes you will support our motion to re-refer.

Recess.

Senator Barnes in the Chair.

Committee report of rerefer is adopted.

HB 596-FN, repealing certain laws relative to bribery or intimidation of voters. Public Affairs Committee. Vote: 6-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: House Bill 596-FN repeals RSA 666:9, relative to examination on complaint of candidates accused of violating the law against bribery, RSA 666:10, relative to the procedure in the enforcement of election laws, and RSA 666:11, relative to the county attorney's duty to prosecute for bribery or intimidation of voters. RSA's 666:9 - 11 are duplicative of laws relating to bribery and intimidation of voters currently addressed under 659:40, which reads: "No person shall directly or indirectly bribe or intimidate any voter not to vote or to vote for or against any question submitted to voters or to vote for or against any ticket or candidate for office in any election. Whoever violates the provisions of this section shall be guilty as provided in RSA 640:3." The attorney general has full legal authority to enforce election laws under RSA 664:18, complaints and RSA 666:8 and RSA 7:6-c which deal with enforcement of election laws by the attorney general. No one opposed the bill at the hearing. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 599-FN, relative to youth access to tobacco products. Public Affairs Committee. Vote: 6-1. Ought to pass with amendment, Senator McCarley for the committee.

1997-1423s
04/01

Amendment to HB 599-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Definitions Added. Amend RSA 78:1 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Licensee" means the person in whose name the license is issued.

XIX. "Sampler" means any person who distributes free tobacco products to consumers for promotional purposes.

XX. "Vending machine" means any self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco, cigarettes, or any other tobacco product.

2 Vending Machines; Fees Increased. Amend RSA 78:2, I and I-a to read as follows:

I. Each manufacturer, wholesaler, sub-jobber, vending machine operator ~~[and]~~, retailer, **and sampler** shall secure a license from the commissioner before engaging in the business of selling **or distributing** tobacco products in this state or continuing to engage in such business. Each wholesale, sub-job and retail outlet shall have a separate license regardless of the fact that one or more outlets may be owned or controlled by a single person. Each tobacco product vending machine to be operated in this state shall be licensed by the commissioner and shall be appropriately identified as being licensed. The commissioner shall adopt rules pursuant to RSA 541-A relative to the licensing and identification of each tobacco products vending machine, and the information required in an application for a license. The commissioner shall issue a license upon application stating such information necessary to identify the outlet and the character of business transacted. The fees for licenses shall be: \$100 for a manufacturer's license; \$250 for a wholesaler's license; \$150 for a sub-jobber's license; \$70 for a vending machine operator's license; ~~and~~ \$10 for a retailer's license; **\$10 for a sampler's license; and \$10 for each vending machine location**, for the purpose of helping to pay the cost of administering this chapter. Each license shall be prominently displayed on the premises described in it. Any person who shall sell, offer for sale or possess with intent to sell any tobacco products without such license as provided in this section shall be subject to the penalty provisions of RSA 21-J:39.

I-a. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this section **and enforcement actions taken pursuant to this chapter and RSA 126-I** shall be public ~~[record]~~ **records**.

3 New Paragraph; Sign. Amend RSA 78:2 by inserting after paragraph I-a the following new paragraph:

I-b. The commissioner, when issuing or renewing a retailer's license under RSA 78:2, shall furnish a sign which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco products to persons under age 18 and the purchase, possession, or use of tobacco products by persons under age 18. Warning: violators of these provisions may be subject to a fine." The sign shall be posted at any location where tobacco products are sold or distributed. The commissioner shall adopt rules, under RSA 541-A, relative to placement of these warning signs in areas where tobacco products are sold or distributed.

4 Renewal. Amend RSA 78:4 to read as follows:

78:4 Term of License; Renewals. Licenses issued under RSA 78:2 shall expire on June 30 in each even-numbered year, unless sooner revoked

or unless the business in respect to which the license was issued should change ownership. Licenses may be renewed upon signed application as provided in RSA 78:2 and upon paying the prescribed fee, ***provided that a license shall not be renewed if there are unpaid fees, fines, or penalties resulting from violations of this chapter or RSA 126-I attributable to the license or the licensee.***

5 Suspension and Revocation of License. Amend RSA 78:6 to read as follows:

78:6 ***Suspension and*** Revocation of License by Commissioner. The commissioner may adopt rules pursuant to RSA 541-A relative to accomplishing the purpose of RSA 78. The commissioner may ***suspend or*** revoke any license issued under RSA 78:2 for failure to comply with the provisions of this chapter and with any rules which the commissioner may adopt. ***The commissioner shall suspend or revoke any license issued under RSA 78:2 if ordered to do so pursuant to RSA 126-I.***

6 Sampler Added. Amend RSA 78:12 to read as follows:

78:12 Affixing Stamps. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form for records of all tobacco products manufactured, produced, purchased, and sold. Each manufacturer, wholesaler, sub-jobber, vending machine operator and retailer shall keep complete and accurate records of all such tobacco products. Such records shall be safely preserved for 3 years in such manner as to insure permanency and accessibility for inspection by the commissioner and [his] ***the commissioner's*** authorized agents. The commissioner and [his] ***the*** authorized agents may examine the books, papers and records of any manufacturer, wholesaler, sub-jobber, vending machine operator or retailer doing business in this state, for the purpose of determining whether the tax imposed by this chapter has been fully paid, and they may investigate and examine the stock of tobacco products in or upon any premises where such tobacco products are possessed, stored or sold, for the purpose of determining whether the provisions of this chapter are being obeyed. ***Each sampler shall keep complete and accurate records of tobacco products distributed free to consumers in New Hampshire for promotional purposes. The commissioner and the commissioner's authorized agents may examine such records.***

7 Vending Machines. RSA 78:12-d is repealed and reenacted to read as follows:

78:12-d Vending Machines. No person shall sell a tobacco product by use of a vending machine, or install or maintain a tobacco vending machine with the intent of making sales, except as provided in the following paragraphs:

I. Vending machines are permitted if they are equipped with a lock-out device which prevents the machine from being operated until the person responsible for monitoring sales from the machine disables the lock. The locking device must be of a design which prevents it from being left in an unlocked condition, and which will allow only a single sale when activated. Locking devices are not required on machines located in areas where minors are prohibited by law.

II. Vending machines are allowed only in establishments where an employee or agent of the business will be present to monitor the machine when the establishment is open for business.

III. Any vending machine permissible under paragraphs I and II shall be located such that it is well within the premises and close enough to the person controlling the machine that such person can determine the age of any person requesting permission to use the machine.

IV. No sales of tobacco are permitted from a vending machine which also offers for sale any non-tobacco product.

V. Vending machine operators shall supply the commissioner with a list specifying the location of each licensed machine.

VI. Tobacco vending machines shall be posted with a sign informing customers of current state law regarding tobacco sales to minors. Tobacco vendors who sell tobacco products from a vending machine shall maintain a sign at the location where the device which operates the locking device is located which informs the clerk that it is illegal to sell tobacco products to minors.

VII. Violations of this section shall be civil infractions punishable by administrative action by the commissioner against the licensee. Fines for violations of paragraphs I-V shall be no more than \$100 for a first offense, no more than \$200 for a second offense, and no more than \$300 for a third or subsequent offense within any 2-year period. Fines for violations of paragraph VI shall be punishable by a fine of no more than \$50.

8 New Chapter; Youth Access to and Use of Tobacco Products. Amend RSA by inserting after chapter 126-H the following new chapter:

CHAPTER 126-I

YOUTH ACCESS TO AND USE OF TOBACCO PRODUCTS

126-I:1 Purpose. The purpose of this chapter is to protect the children of New Hampshire from the possibility of addiction, disability, and death resulting from the use of tobacco products by ensuring that tobacco products will not be supplied to minors.

126-I:2 Definitions. In this chapter:

I. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and wrapped in any material except tobacco.

II. "Commission" means the liquor commission.

III. "Licensee" means the person in whose name a license issued pursuant to RSA 78:2 was granted.

IV. "Manufacturer" means any person engaged in the business of importing, exporting, producing, or manufacturing tobacco products who sells the product only to licensed wholesalers.

V. "Minor" means a person under the age of 18.

VI. "Person" means any individual, firm, fiduciary partnership, corporation, trust, or association, however formed.

VII. "Public educational facility" means any enclosed place or portion of such place, which is supported by public funds and which is used for the instruction of students enrolled in preschool programs and in grades kindergarten through 12. This definition shall include all administrative buildings and offices and areas within facilities supportive of instruction and subject to educational administration including, but not limited to, lounge areas, passageways, rest rooms, laboratories, study areas, cafeterias, gymnasiums, libraries, maintenance rooms, and storage areas.

VIII. "Retailer" means any person who sells tobacco products to consumers.

IX. "Sampler" means any person who distributes free tobacco products to consumers for promotional purposes.

X. "Sub-jobber" means any person doing business in this state who buys stamped tobacco products from a licensed wholesaler and who sells all the sub-jobber's tobacco products to other licensed sub-jobbers, and retailers.

XI. "Tobacco product" means any product containing tobacco including, but not limited to, cigarettes, smoking tobacco, cigars, chewing tobacco, snuff, pipe tobacco, smokeless tobacco, and smokeless cigarettes.

XII. "Vending machine" means any self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco, cigarettes or any other tobacco product.

XIII. "Vending machine operator" means any person operating one or more tobacco product vending machines on property or premises other than the operator's own.

XIV. "Wholesaler" means any person doing business in this state who shall purchase all the wholesaler's unstamped tobacco products directly from a licensed manufacturer and who shall sell all of the wholesaler's products to licensed wholesalers, sub-jobbers, vending machine operators, retailers, samplers and those persons exempted from the tobacco tax under RSA 78:7-b.

126-I:3 Proof of Age of Purchaser.

I. For the purposes of this chapter, any person responsible for monitoring sales from a tobacco vending machine or any person making the sale of tobacco products, which vending machine or other sale is to be made to any person who does not appear to be at least 18 years of age, shall require the purchaser to furnish any of the following documentation that such person is 18 years of age or over:

(a) A motor vehicle driver's license issued by the state of New Hampshire, or a valid driver's license issued by another state, or province of Canada, which bears the date of birth, name, address and picture of the individual.

(b) An identification card issued by the director of motor vehicles under the provisions of RSA 260:21, or any picture identification card issued by another state which bears the date of birth, name and address of the individual.

(c) An armed services identification card.

(d) A valid passport from a country with whom the United States maintains diplomatic relations.

II. Photographic identification presented under this section shall be consistent with the appearance of the person, and shall be correct and free of alteration, erasure, blemish, or other impairment.

III. The establishment of all of the following facts by a person responsible for monitoring sales from vending machine or a person or sampler making a sale or distribution of tobacco products to a person under 18 years of age shall constitute prima facie evidence of innocence and a defense to any prosecution for such sale:

(a) That the person falsely represented in writing and supported by some official documents that the person was 18 years of age or older;

(b) That the appearance of the person was such that an ordinary and prudent person would believe such person to be at least 18 years of age or older; and

(c) That the sale was made in good faith relying on such written representation and appearance in the reasonable belief that the person was actually 18 years of age or over.

126-I:4 Sale and Distribution of Tobacco Products to Minors Prohibited.

I. No person shall sell, give, or furnish or cause or allow or procure to be sold, given, or furnished tobacco products to a minor. The prohibition established by this paragraph shall not be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, vending machine operator, sampler, or retailer from performing the necessary handling of tobacco products during the duration of their employment.

II. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines

for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition, for the fourth and subsequent offenses, the license to sell tobacco products of the manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer where the offense occurred shall be suspended for a period not to exceed the term of such license or shall be revoked as provided in RSA 78:6.

III. In addition to the civil penalty described in paragraph II, a person who violates this section shall be guilty of a violation for a first offense and a misdemeanor for each subsequent offense.

126-I:5 Distribution of Free Samples.

I. No person may distribute or offer to distribute samples of tobacco products in a public place. This prohibition shall not apply to sampling:

(a) In an area to which minors are denied access.

(b) In a store to which a retailer's license has been issued.

(c) At factory sites, construction sites, conventions, trade shows, fairs, or motorsport facilities in areas to which minors are denied access.

II. The commission shall adopt rules pursuant to RSA 541-A concerning the distribution of free samples of tobacco products to prevent their distribution to minors.

III. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition, for the fourth and subsequent offenses the sampler's license shall be suspended for a period not to exceed the term of such license or shall be revoked, as provided in RSA 78:6.

126-I:6 Possession and Use of Tobacco Products by Minors.

I. No person under 18 years of age shall purchase, attempt to purchase, possess, or use any tobacco product.

II. The prohibition on possession of tobacco products shall not be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, vending machine operator, sampler, or retailer from performing the necessary handling of tobacco products during the duration of their employment.

III. A minor shall not misrepresent his or her age for the purpose of purchasing tobacco products.

IV. Notwithstanding RSA 169-B and RSA 169-D, a person 12 years of age and older who violates this section shall not be considered a delinquent or a child in need of services.

V. Any minor who violates this section shall be guilty of a violation and shall be punished by a fine not to exceed \$100 for each offense or shall be required to complete up to 20 hours of community service for each offense, or both. Where available, punishment may also include participation in an education program.

126-I:7 Use of Tobacco Products on Public Educational Facility Grounds Prohibited.

I. No person shall use any tobacco product in any public school facility or on the grounds of any public educational facility.

II. Any person who violates this section shall be guilty of a violation and, notwithstanding RSA 651:2, shall be punished by a fine not to exceed \$100 for each offense.

126-I:8 Special Provisions.

I. No person shall sell, give, or furnish tobacco products to a minor who has a note from an adult requesting such sale, gift, or delivery.

II. All tobacco products shall be sold in their original packaging bearing the Surgeon General's warning.

III. The sale of single cigarettes is prohibited.

IV. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition for the fourth and subsequent offenses, the license to sell tobacco products of the manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer where the offense occurred shall be suspended for a period not to exceed the term of such license or shall be revoked, as provided in RSA 78:6.

V. In addition to the civil penalty described in paragraph II, a person who violates this section shall be guilty of a violation for the first offense and a misdemeanor for each subsequent offense.

126-I:9 Enforcement Authority. The commission shall have the primary responsibility for enforcing this chapter. Local, county, and state law enforcement officers shall also have jurisdiction to enforce this chapter. Such authority may be delegated to agents working under their authority.

126-I:10 Rulemaking. The commission shall adopt rules, pursuant to RSA 541-A, relative to the hearings and appeals process and relative to the proper administration of this chapter.

126-I:11 Fines.

I. All fines imposed by any court and collected for the violation of the provisions of this chapter shall be paid to the state, county, or town, the officials of which instituted the prosecution.

II. All fines imposed by the commission shall be deposited into the general fund.

126-I:12 Penalties.

I. Violations of this chapter may be prosecuted by local, county, or state law enforcement officials.

II. The commission may issue administrative warnings and assess fines and may order the commissioner of revenue administration to suspend or revoke a license issued pursuant to RSA 78 for a specified period of time for violations of this chapter.

III. On or before April 1 of each even-numbered year, the commission shall provide the department of revenue administration with a list of the names and addresses of all persons against whom fines and penalties were assessed pursuant to this chapter and who have not paid said fines and penalties in full by the date of the list. The commission shall update the information provided to the department of revenue administration prior to June 30 of each even numbered year and thereafter as requested by the commission.

126-I:13 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

126-I:14 Preemption. Nothing in this chapter shall be construed to restrict the power of any county, city, town, village, or other subdivision of the state to adopt local laws, ordinances, and regulations that are more stringent than this chapter and RSA 78.

9 Repeal. The following are repealed:

I. RSA 78:12-b, relative to prohibition of the sale and distribution of tobacco products to persons under 18 years of age.

II. RSA 78:12-c, relative to possession of tobacco by persons under 18 years of age and misrepresentation of age for the purpose of procuring tobacco products.

10 Effective Date. This act shall take effect January 1, 1998.

SENATOR MCCARLEY: House Bill 599-FN provides that vending machines may be used to sell tobacco products if 1) An employee of the establishment in which the machine is located monitors the machine, 2) Each tobacco machine is properly signed with current state law regulating tobacco sales to minors, and 3) Each vending machine is equipped with a lock-out device to prevent the machine from being operated until the individual responsible for monitoring machine sales disables the lock. The locking device must be such that it cannot be left in an unlocked position. House Bill 599-FN also establishes a chapter relation to youth access to and use of tobacco products. The purpose of this new chapter is to protect children of New Hampshire from the possibility of addiction, disability, and death resulting from the use of tobacco by minors. Within the new chapter on youth access is included a preemption section that allows counties, cities and towns and villages to adopt local ordinances and regulations more stringent than those established in RSA 126-I and RSA 78. Finally, this bill provides that vending machine licensing will be administered by the Department of Revenue Administration while enforcement of tobacco access will be conducted by the liquor commission. Current law does not work. Just think of how many teenagers you have seen in your towns and cites that appear to be under the age of eighteen and are smoking a cigarette. Regardless of why teenagers smoke - whether it be tobacco ad campaigns geared toward children or movies that feature teen idols puffing away on cigarettes, the fact is kids smoke. In fact, according to a recent survey, more New Hampshire kids smoke than do kids in forty-seven other states. This top three ranking is not something to be proud of. It is appalling. House Bill 599 will help deter New Hampshire kids from smoking so that hopefully in a similar survey taken next year or the year after, New Hampshire will rank near the bottom of the list rather than near the top. Tobacco is a billion dollar industry. Each year we witness the millions that are spent by tobacco companies on advertising. Though tobacco may be a revenue-producing product, we simply must put the health and welfare of our children before the health and welfare of our pocketbooks. All of our work on the kindergarten issue - and I mean all of our work - whether you are for one kindergarten plan or another - will be for nothing if we do not pass this bill. We would be hypocritical to work so hard on our securing our children's education and pass up the opportunity to focus on our children's health. Some folks have expressed concern about the effect of restricted tobacco sales on small New Hampshire businesses. Think of it this way - either New Hampshire will restrict tobacco sales to minors now or New Hampshire will pay for health care costs for smokers who will face tobacco-related health problems later in life. In 1993 in New Hampshire, health-related costs due to smoking were upwards of 295 million dollars. The senate amendment to the bill as amended by the House strikes the increase in vending machine licensure fees and reduces the minimum proof of age requirement from 27 to 18. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Senator Danais offered a floor amendment.

1997-1507s

08/02

Floor Amendment to HB 599-FN

Amend RSA 78:2, I-a as inserted by section 2 of the bill by replacing it with the following:

I-a. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this section ***and enforcement actions taken pursuant to this chapter and RSA 126-I*** shall be public [record] ***records. At a minimum, the following information shall be documented:***

(a) The date of the compliance check.

(b) The name, address, tax identification number, and phone number of each retail establishment checked.

(c) The results of the compliance check, including documentation in the case of a sale to a minor.

(d) A document establishing that the fine was paid or final conviction entered.

Amend RSA 126-I as inserted by section 8 of the bill by deleting section 14.

AMENDED ANALYSIS

This bill declares that tobacco products cannot be sold in vending machines and restricts the advertising and promotion of tobacco products. The bill raises the license fees for persons selling tobacco products. The bill also establishes a new chapter on youth access to and use of tobacco products.

SENATOR DANAIS: I rise today to offer an amendment to HB 599 that will serve to strengthen the bill by explicitly stating what information will be available to the public as it relates to compliance checks by the state liquor commission. In addition, it assures that these new laws will be applied equally throughout the state and that the general public, retail store operators and enforcement officials, will have a uniform set of laws to comply with and enforce. This bill and the amendment that I offer today will help create a retail environment where it should not be possible to purchase cigarettes unless proofs of age can be verified in person. Achieving this objective will take us a long way towards our ultimate goal where minors will not have access to cigarettes. As an owner/operator of a restaurant in Manchester, I understand these issues all too well. It is essential to have uniform and straightforward, but strict, laws governing the youth access to tobacco products. Not surprisingly, retailers throughout New Hampshire have taken it upon themselves to educate and train themselves and their employees to prevent the sale of tobacco products to minors. This is conducted through the "We Card" program that I am proud to support. To be effective in preventing youth access to tobacco products, New Hampshire needs these tough, but uniform state laws. House Bill 599 without the amendment invites a patchwork quilt of inconsistent laws like the municipalities of the commonwealth of Massachusetts have created. What I have in front of you is an example of the tobacco laws relating to minors for the state of Massachusetts. As you can see, all of the small towns have their own laws. Just an example, one town has a law that says that they have to be in "Full view of the clerk, within five feet," another town has "On the counter within five feet of the clerk," another town, "On or behind counter within 10 feet of a register or counter," another, "Ten feet over

or behind or on the counter," another, "Ten feet and the clear view of the employee, cashier," it just goes on and on. There is no clear cut state statute as far as a uniform regulated way to prevent the minors from buying cigarettes. That is what this amendment is trying to do. I support HB 599 which establishes a stringent law relative to youth access to tobacco products. But let's make it uniform and applicable to all of the children in New Hampshire, because if an idea is good for one child in Claremont, then it is good for another child in Keene, Nashua, Derry, Concord, Bristol or Colebrook. Please support my proposed amendment to protect all of our children. Thank you.

SENATOR ROBERGE: As chairman of the Public Affairs Committee, the particular committee that heard this particular legislation, we deliberately left that piece in having the cities and towns make more stringent rules, perhaps in the norm, if they felt that was appropriate to them. We felt that we vote home-rule here, almost all of the time and this was the time to vote home-rule. Also, the law enforcement officials and the officials are better able to assess what their committee needs than for us to be making rules that they have to abide by from Concord.

SENATOR MCCARLEY: I would like to echo what Senator Roberge said. I think that we have finally crafted a bill that will truly start to enforce something that we have talked about with other legislation in the past, and frankly, it has been very unsuccessful. I believe that by attempting to remove the preemption language, we are actually watering down the bill and we will not be leaving ourselves much better off. I think that we are better off leaving it here, and allowing local communities, if they feel strongly enough, that even this is not strict enough to protect their children, let them make that decision on a local level.

Senator Rubens moved to divide the question.

SENATOR RUBENS: I would like to divide the question into two pieces. Piece one to be lines one through eleven. Piece two would be line 13.

SENATOR K. WHEELER: I am going to speak to the second part of the question that Senator Rubens has moved to divide. The part that deletes the local control, and to say that I think that everyone here believes... we all represent cities and towns, some all towns and some all city, but we all represent the people in the municipalities who have the authority they believe to be able to set standards that benefit their local communities. I don't think that we should stand in the way of the local communities doing their best to protect their young people from access to tobacco. I think that everyone in this room believes in the concept of local control and this is a good time to show this by defeating this part of the amendment.

SENATOR WHIPPLE: First of all, the bill as I understand it, the amendment as I understand it, is in two sections. The line 13 is a preemption portion, and the first part already we have that in the bill. House Bill 599 provides that all information about enforcement actions shall be a public record. The liquor commission has existing authority to conduct compliance checks if the enforcement action is taken, it will be a public record. What this looks like is, the tobacco industry is looking to have the state do some of their work for them. In my opinion, I hope that the Senate lets the tobacco company pay for their own work. On the first part, the preemption, there is nothing in the chapter that shall be construed to restrict the power of any town or city or village or other subdivision of the state to adopt local laws, ordinances and regulations that

are more stringent than this chapter. What that does is, it does not provide new authority to cities and towns. It simply states that cities and towns should not be prevented by the passage of HB 599 from exercising their existing authority to restrict youth access to tobacco products. Some good examples are local communities may wish to take such action as further limiting the vending machine locations in the community or limiting the use of tobacco products within certain distance of public buildings or restricting billboard advertising in a school zone or a non-smoking zone for school districts. If that is what they want to do if this law passes as written, then they can do it. If we take that preemption clause out, they can't. So I prefer to see that the bill be passed exactly as the Public Affairs Committee voted it as. Thank you.

SENATOR COHEN: Very briefly regarding the second part. Deleting section 14. We are here to correct problems, to deal with problems. What problem does this address? The problem that we are trying to deal with is young people smoking cigarettes. I thought that we worked for the people of the state of New Hampshire. This is serving the tobacco lobby. Who among us here works for the tobacco lobby? That is what this is about. We need to keep local control here, it is extremely important. The people in the state of New Hampshire, I can't imagine anybody wanting to delete this local authority on this.

SENATOR SQUIRES: I rise also with respect to express my opinion that I am against this amendment. Both of these amendments were defeated by the House Public Affairs Committee, but having said that, what is preemption? What it is, is a provision of state or federal law that eliminates power of the local government to enact a law on a certain topic. It is a major threat to the tobacco industry, is why I think that it has come to our attention. It is much simpler for a tobacco industry to undermine one law than it is for them to rescind hundreds of local laws. Preemption eliminates the process of local legislation, all major tobacco use preventive organizations oppose this. The Coalition of Smoking or Health, the American Cancer Society and others oppose it. Once enacted, preemption has never been overturned in any state. Also it runs counter to our standard legislative process of setting minimum standards a government many enact. I urge you to vote down this amendment on the idea that this preempted state law undermines the principal of local control. Thank you.

SENATOR WHIPPLE: I object to the division of the question.

SENATOR RUBENS: I believe that it is advantageous to vote on the two sections of this amendment separately. The first section, lines one through eleven, would potentially, in my view, bring the tobacco industry, the so-called "tobacco lobby" into partnership with the state in assisting and enforcing the provisions of the law by protecting its customers, i.e., the retailers from selling cigarettes to minors. I believe that to be the reason that the tobacco industry wants that section. I would personally, however, advocate voting no to line 13 on the second part. So I see the two sections, part one being advantageous to protecting youth against having access to tobacco, and the second one not advantageous, that is why I move for a division of the question.

SENATOR DANAIS: Yes, I will support Senator Rubens' request to divide the question. As Senator Rubens said, both parts of this amendment address different sections and I would like to have both parts voted on because I think that especially part one, I think would bring a little more uniformity into the state as far as the regulations. I support Senator Rubens' motion.

SENATOR ROBERGE: Mr. President and members of the Senate, the first part of the amendment, lines three to eleven, we really shouldn't be passing that either. That particular language has not been passed by the state Liquor Commission or the Department of Revenue Administration as it stands right here. At this late juncture, we should not be passing legislation that might cause one or two of our state agencies difficulty in enforcing.

Question is on dividing the question.

Motion failed.

Question is on the floor amendment.

Floor amendment failed.

Ordered to third reading.

Senator Rubens in favor of HB 599-FN.

HB 225-FN, providing for the establishment of a needle exchange pilot program in one community in New Hampshire. Public Institutions, Health and Human Services Committee. Vote: 4-3. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 225 requires the commissioner of the Department of Health and Human Services to establish guidelines to regulate and to monitor together with an advisory committee, a two-year needle exchange pilot program to reduce the spread of AIDS and other infectious blood borne diseases. One New Hampshire community will have the local option of implementing this program. This bill is not a state mandate, but rather a decision left to local control. The bill does not give the specifics of the program, that is left up to the committee choosing to participate and working with the Department of Health and Human Services. There is no use of state funds. If there are no federal or private donations available, the program will not come to fruition. Six states have sanctioned needle exchange programs and have seen positive results in reduced AIDS cases of getting IV drug users into treatment. This evidence argues against claims that this bill is pro-drug use or that it will increase drug use. This bill is a common sense public health measure. Education and prevention are the key to fighting the spread of blood borne illnesses. The counseling and drug rehabilitation provision of this bill will be effective because their statistics showing increased contact with drug users has resulted in more offenders entering drug treatment programs. The Public Institutions, Health and Human Services Committee recommend this bill as ought to pass.

SENATOR D. WHEELER: I would like to have this bill laid on the table until Joe gets back.

Senator D. Wheeler moved to have **HB 225-FN**, providing for the establishment of a needle exchange pilot program in one community in New Hampshire, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 225-FN, providing for the establishment of a needle exchange pilot program in one community in New Hampshire.

HB 437-FN-L, relative to certain health officers. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator Podles for the committee.

1997-1462h
01/09

Amendment to HB 437

Amend the bill by replacing section 2 with the following:

2 Qualifications. Amend RSA 127:6 to read as follows:

127:6 Qualifications.

[~~I.~~] The district health officer shall ~~[be a doctor of medicine and hold a degree in public health as a result of having at least one year's special training in public health or, in lieu of the degree, shall meet the qualifications prescribed by the department of health and human services]~~ *have a bachelor's or graduate degree in public health, medicine, sanitary engineering, environmental health, microbiology, or general sanitation and at least one year of work experience in the field of public health.* [~~He~~] *The district health officer* shall ~~[serve during good behavior and]~~ be removed only for cause after a public hearing by the board on charges preferred of which reasonable notice shall have been given. [~~He~~] *The district health officer* shall ~~[devote his entire time to the performance of]~~ *perform* such duties as are required of health officers by the general laws of the state and as the state shall determine and shall act as secretary of the board, ~~[provided he]~~ *but* shall not have a right to vote.

[~~H. The commissioner of the department of health and human services shall adopt rules under RSA 541-A relative to the qualifications of the district health officer.~~]

SENATOR PODLES: Mr. President, HB 437 eliminated the requirement that a district health officer be a medical doctor. A district health officer would now be required to meet the qualifications drawn up by the Department of Health and Human Services under RSA 541:A. It also allows the district health officer to appoint deputy health officers with the approval of the selectmen and the commissioner of the Department of Health and Human Services. These officers would be empowered to enforce public health laws and regulations. The deputy shall be paid as the selectmen of the town decide. The rest of the changes in the bill are simple gender corrections. The amendment requires that the district health officer have a bachelors or a graduate degree in public health, medicine, sanitary engineering, environmental health, microbiology or general sanitation and at least one year of work experience in the field of public health. The committee recommends ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 488-FN, relative to involuntary admission to the state hospital on an emergency basis. Public Institutions, Health and Human Services Committee. Vote: 5-2. Ought to pass, Senator K. Wheeler for the committee.

SENATOR K. WHEELER: House Bill 488 adds another definition to involuntary admission criteria. This will affect a very small number of people, but it is critical because these few people have demonstrated a pattern of behavior that will lead to a suicide attempt. We already have in our statutes, criteria for involuntary emergency admissions. This isn't creating anything new, it is simply adding six criterias. The first is if a person has been determined to be severely mentally disabled for at least one year, all six have to be in place. The person has had to have at least

one involuntary admission within the last two years. The person has no guardian. The person is not subject to a conditional discharge. The person has refused the treatment determined necessary, and the last one is that a psychiatrist at a mental health program has determined based upon the persons clinical history that there is a substantial probability that the persons refusal will lead to death or serious injury if not admitted. This is a humanitarian piece of legislation for those very few people whom it will affect. All the necessary safeguards remain in place. The cross checks are 1) A judicial review in three days. 2) A tight relationship between the state hospital doctors and residential doctors. 3) Oversight by the division of mental health. The Public Institutions, Health and Human Services Committee recommend this as ought to pass.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Blaisdell moved to have **HB 225-FN**, providing for the establishment of a needle exchange pilot program in one community in New Hampshire, taken off the table.

Adopted.

HB 225-FN, providing for the establishment of a needle exchange pilot program in one community in New Hampshire.

SENATOR D. WHEELER: I just want to make a few quick points, I won't belabor it, the day is getting late. I would like to point out to the Senate that there is a block on federal funding for this type of program now and one would have to assume that the feds are not convinced that this is a legitimate program and worth putting public money into. I think that you also have to somehow reconcile the fact that this is a criminal act, injecting drugs. Perhaps that we should be putting our money into law enforcement and not into free needles. I would also like to point out on page 1 of the bill, line 24 and 25 that the immunity section of this bill, which, I think, is severely flawed. "Any individual who either administers or participates in the needle exchange program established under this act shall be immune from prosecution for violating the drug paraphernalia statutes." There is no time limitation on this. All that a drug addict would have to do is to get into the program, go to one meeting, then for the rest of their life they can't be prosecuted for using the drug paraphernalia statutes which a lot of law enforcement use to collaborate their case and this evidence would totally be thrown out. I would urge that we find HB 225 inexpedient to legislate.

SENATOR HOLLINGWORTH: Senator Wheeler, isn't it true that the immunity is for the duration of the program?

SENATOR D. WHEELER: That is not what I read in the bill, Senator.

SENATOR HOLLINGWORTH: The pilot program is for two years, is that not correct?

SENATOR D. WHEELER: I believe so, Senator, but the immunity would last forever.

SENATOR K. WHEELER: I wanted to draw it to Senator David Wheeler's attention, that on February 18 of this year, Health and Human Services Secretary Donna Shalala, did for the first time, publicly endorse needle exchange programs at the community level to prevent the trans-

mission of HIV in intravenous drug users. A lot of studies have been done and the reports have come in now and the feelings are that these studies indicate that these needle exchange programs can have an impact on bringing difficult to reach populations into systems of care that offer drug dependency services, mental health and medical support services. So it might have even more of an effect than we are hoping for in reducing the spread of AIDS, it might also get some people off drugs that are currently on drugs.

SENATOR FRANCOEUR: Senator Wheeler, how much money is involved in this pilot program?

SENATOR K. WHEELER: There is no state money involved in this program.

SENATOR FRANCOEUR: Let me rephrase that question. How much federal money is in this program?

SENATOR K. WHEELER: The bill is dependent on the amount of federal money that will become available, that might be available. There is not a specific dollar amount attached to it.

SENATOR FRANCOEUR: Would it be fair to assume then that the money is coming from the taxpayers from the state of New Hampshire to the feds and then back to the state and then back to this program, so it is our money that is being used on this program?

SENATOR K. WHEELER: It is my understanding, that it is also going to be funded through private sources and that it is, as you know, enabling legislation, it is a pilot program. It is two years. It is only for one community and the community has to vote to apply for it. I don't think that it is going to break the bank.

SENATOR SQUIRES: Last week I spoke up against the companion of this bill that had to do with the removal of restrictions for the acquisition of needles, a position that I still believe in, but I think that this is different. I think that this bill empowers a community that has to deal specifically with a result of this problem if the community chooses to deal with it, why not? Why do we wish to say to any community, you cannot do this. That does not make any sense to me. I urge passage of this, and leave it up to the community, in the case of this bill, to decide what it is that they want to do.

SENATOR COHEN: There are many, many, good reasons why this should happen and pass, and not the least of which is saving lives. Quoting from the U.S. News and World Report of December 1996, "Scientists believe that fifty percent of all new HIV infections occur among intravenous drug users with an additional 20 percent or so occurring among junkies' sex partners. Besides saving lives, these needle exchanges deliver a huge financial payoff." In answer to Senator Francoeur's question, "Consider the case of an HIV positive addict who infects eight others in a one year period, which is a very modest estimate. If each turns to Medicaid, another federal program, to pay his or her lifetime medical costs at an average of \$119,000 plus, that is about a \$1 million burden for taxpayers. Money that could have been saved if the one addict had been in a needle exchange program. Further point, some are concerned that this doesn't deal with the underlying drug addiction. It does. Needle exchanges have actually worked as a bridge into real treatment. One program in Tacoma, Washington made nearly 1,000 referrals to drug treat-

ment programs in two years. It is important that this bill pass. It is up to the local communities. It can save lives, even if just a few, it should be done.

SENATOR J. KING: I agree with Doctor Squires' comments. I have been an opponent for this bill of a while, but I do think that if the cities had their way of doing the things that they want to, to have home-rule, they wouldn't have to be coming into here and asking for this type of thing. So let us at least give it to them, they asked for it and let us give them what they want and pass it.

SENATOR JOHNSON: Senator Cohen, could you tell me if anyone in the state of New Hampshire or outside of the state of New Hampshire could go to that community and get needles?

SENATOR COHEN: I am not sure that I understand your question.

SENATOR JOHNSON: Is it open to anyone wanting clean needles for dirty needles, whether they are outside that community or outside the state?

SENATOR COHEN: I am turning to the sponsors here. I believe that it would just be people from within that community. You have to be registered program participants so the answer is no. The community can set the standards.

SENATOR K. WHEELER: It is my understanding that the community would set the standards for the eligibility for the program.

SENATOR D. WHEELER: Senator J. King, could you please tell us which cities you referred to that asked for this authority, please?

SENATOR J. KING: This one here, whoever this is, there has to be someone out there, a city or a town that wants to do it.

SENATOR D. WHEELER: The testimony in committee was that no town had come forward asking for this bill, and you said that there had, so I was just wondering if you could tell us which ones.

SENATOR J. KING: I would imagine that there had, we have a bill here that asks for it. Even if it isn't a name of a town, if there is one out there, and they want it, and they want to try it to see if it is going to be successful and it is a pilot study program, and if it doesn't, someone is going to learn from it. I think that it should pass.

SENATOR BLAISDELL: Mr. President and members of the Senate, I rise in support of this. Someone wrote a long time ago that "No man or woman is alone when they have a friend." A person who is affected with AIDS has a friend or should have a friend in this Senate. You have the power to be able to save some lives. I couldn't care less, Senator Francoeur, how many federal funds were involved in it if I could save one person's life. You can't tell me how much a person's life is worth and I can't tell you. So please, do the right thing. We have debated this and Senator Squires, Doctor Squires, you put it better than anybody, but put this bill behind us and get on with it. I have dealt with the people with AIDS, in fact, I have them in my building in Keene. They are good solid people who have worked very hard. A lot of people didn't want them, but I let them come into my building. Please do the right thing. You have the power to be able to save some lives. Think of that first, never mind the dollars that are involved.

Recess.

Senator Delahunty in the Chair.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Fraser, McCarley, Whipple, Blaisdell, Squires, Pignatelli, Larsen, J. King, Danaïs, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: Gordon, Johnson, Rubens, Patenaude, Roberge, D. Wheeler, Francoeur, Podles, Barnes, Russman, Delahunty.

Yeas: 13 - Nays: 11

Adopted.

Ordered to third reading.

HB 567-FN-L, relative to administration of vital records. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator Squires for the committee.

1997-1458s

01/02

Amendment to HB 567-FN-LOCAL

Amend RSA 126:6, VI(a) and (b) as inserted by section 3 of the bill by replacing them with the following:

VI.(a) Except as provided in subparagraphs (b) and (c), the state registrar of vital records and health statistics shall request, but shall not require, the social security identification numbers of both parents of the newborn child at the time the vital statistics information authorized by this section is obtained.

(b) Social security numbers of the parents shall not be requested when the child is born of unwed parents and paternity has not been established pursuant to RSA 168-A; provided, however, that if paternity is subsequently established by court order or affidavit of paternity and the birth certificate is modified pursuant to RSA 126:6-a, II-a or III, the registrar of vital records and health statistics shall then request, but shall not require, the social security numbers of both parents.

AMENDED ANALYSIS

This bill makes certain changes in the laws relative to the administration of vital records. Under this bill, a person may obtain his or her vital records from any town clerk and may obtain a marriage license from any town clerk. The bill provides for electronic filing of vital records with the bureau of vital records and health statistics. The bill also changes the terminology regarding death certificates to death records.

SENATOR SQUIRES: Mr. President, this bill simply brings the Bureau of Vital Records and Health Statistics into the age of technology. It provides that any person may obtain their vital records or a marriage license from any town clerk. It arranges for electronic filing of vital records with the bureau. Additionally, this bill amends terminology regarding death certificates to death records. The committee recommends ought to pass as amended unanimously.

Amendment adopted.

Ordered to third reading.

HB 646-FN-A, relative to eligibility for child day care services for persons receiving public assistance. Public Institutions, Health and Human Services Committee. Vote: 4-3. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 646 changes the eligibility for child day care services to low income families from the current threshold of 170 percent of federal poverty level to 185 percent. The New Hampshire Employment program (NHEP) takes a work-first approach, with the long term self-sufficiency for working families, by putting the child care eligibility at 185 percent, the same threshold as the extended medical assistance policy. With NHEP, the senate will send a clear message to working families, that it stands by the work-first approach by providing the essential supports to achieve self sufficiency for families. A close scrutiny of who those families are and what they are earning at the 170th percentile, shows that the cutoff, as is, undermines those very families who are on their way to self-sufficiency, the working poor. A serious look at what happens to the income of working families when they exceed 100 percent of poverty proves that the current cutoff is just too low. Our committee recommends that we cannot afford to ignore the initiatives of the New Hampshire Employment Program by undermining the ability of low income families to remain employed. Parents, as we heard in committee, are currently being forced to turn down raises because the impact of going off child care assistance is financially devastating. HB 646 helps give the support essential to keep New Hampshire's working families working. I urge you to join the committee in recommending this bill ought to pass.

SENATOR FRANCOEUR: Senator Larsen, are these fiscal notes correct, that this would cost... currently in the bill, of \$1.1 million and \$1.2 million plus in 1999?

SENATOR LARSEN: I would like to defer to the chairman of the Senate Finance who has a good handle on those numbers.

SENATOR BLAISDELL: Senator Francoeur, if you look on the other page on the back, it says on funding, "Section one of this act shall be funded only if the necessary federal funds are available." So there is no effect on the budget.

Adopted.

Ordered to third reading.

HB 723-FN-A, establishing a New Hampshire health access corporation, continually appropriating a special fund, and allowing the healthy kids corporation to cover adults. Public Institutions, Health and Human Services Committee. Split report, Vote: 4-4, Ought to pass, Senator Larsen for the committee. Split report, Vote: 4-4, Inexpedient to legislate, Senator D. Wheeler for the committee.

SENATOR D. WHEELER: On the first part of my comments, I will probably be speaking for myself and probably not the other four members of the committee or maybe so for the other four members of the committee. The split reason on this bill might have been for different reasons, but as for myself, I think that we are going down a road of socializing insurance. Federal government was unsuccessful in socializing medicine and this bill is a major step down the road to socializing insurance. This bill would provide federal matching funds to buy insurance for those people who are uninsured. The current proposal would allow someone with two children with

an income of up to sixty-four thousand dollars to buy subsidized health insurance. Of course this makes the private market very nervous, especially the individual market that is in deep trouble because of Kennedy Kassebaum and other changes in the insurance marketplace. The proposed plan is to buy one hundred sixty million dollars worth of insurance, to put that out to bid and buy it all from one vendor. I would say naturally the vendors are very nervous. Approximately seventy-five to eighty million dollars of federal funds, taxpayer money, is expected to be used on this program. Further, it would take those decisions out of the legislature regarding eligibility and what would be covered. Today, the whole legislature votes on those. Now I understand that there is an amendment that would allow this corporation to set those guidelines with the approval of the fiscal committee, but I believe those guidelines belong in the hands of elected officials and not in the board of directors of the corporation, of what the taxpayers will cover for health insurance. The way that we should approach the uninsured is to come up with a bare bones health insurance plan that people can afford. Cost is the major barrier to access, and we need this legislature to come up with a bare bones plan and not to socialize the insurance industry. I would ask you to vote with me for inexpedient to legislate.

Recess.

Out of recess.

SENATOR LARSEN: House Bill 723 is one of the more important issues that this legislature is going to look at this session. It is unfortunate that it comes up on a day when we have so many important issues. But I urge you to take a few minutes to think about this bill. Of all the issues that we have thought about in this legislature, one of the biggest issues is how are we are going to help alleviate the problems of the uninsured working adults in this state? What is going to help those uninsured adults get coverage so that they get preventive services that bring down the costs of health care for everyone by getting their services early rather than when they are in the most severe need. This is not socialized insurance, like Senator Wheeler implied, it is though subsidized insurance to a certain extent. There is a cost sharing that might go on between the adults and the state. This bill establishes a health care access corporation and it is modeled after a working bill that is the healthy kid's corporation. It allows adults currently uninsured to have health insurance coverage. House Bill 723 creates a nonprofit organization that offers lower cost health insurance coverage on a buy-in basis, which would be funded under the Medicaid waiver. This bill allows coverage to low and moderate income adults who are currently without health insurance. If the waiver is approved at the federal level, the health care finance administration will match those individual premium payments for qualifying uninsured persons. This is a federal match, this is participation between the private payers and the federal government. Additionally, this bill provides an opportunity for us to bring down the costs of coverage for uninsured children. These are two of the most important issues we are facing in this state. How do we cover uninsured children and how do we cover uninsured adults? We have a way to do it and we have a way to do it in participation with the federal government. The bill decreases reliance on Medicaid and increases self reliance by paying adults participating in a process in a similar way to paying parents who participate right now in the Healthy Kids Corporation. This is a good bill. This is an opportunity for New Hampshire to stand out in the field for providing health care access to uninsured adults. We can work out the is-

sues relating to the individual market. The individual market in health care has not been working. That is pretty obvious to all of us who have been seeing this. We want to work with the individual insurers to make this bill reasonable, but the final instance, the important issue is, let's get uninsured adults covered, and let's do it under this process and let's see how it works. We can fine tune it later. I urge the bill ought to pass.

SENATOR RUBENS: Forgive me, I am not familiar with this. Senator Wheeler spoke of sixty-four thousand dollar limits for eligibility, where do those criteria exist?

SENATOR LARSEN: I think that you need to ask that of Senator Wheeler. That reference was not one with which I was familiar.

SENATOR RUBENS: Senator Wheeler, would you answer that question?

SENATOR D. WHEELER: In commissioner Morton's testimony, it was his intention to... and perhaps in a waiver he has already applied for, that people would be covered up to 400 percent of the poverty level on a sliding fee scale. Those who make higher incomes would pay a little less, let's say 25 percent than those who make a lesser income who might participate, the federal government might participate at 50 percent of the cost to the health insurance plan. Those are his intentions at the moment. In this bill, he sets the rules and the criteria and those are his intentions.

SENATOR RUBENS: Senator Larsen, on page two, lines 27 to 29, "notwithstanding any of the provisions of law, any payments made by the corporation shall be exempt from the premium tax." Do we have any estimate as to the state revenue lost on that?

SENATOR LARSEN: That was not part of the discussion that I recall, although current law exempts the Healthy Kids Corporation from the premium tax because of the public importance of the public policy of providing affordable health care, so that is the logic under this. I did understand that that may be part of an amendment. Yes, it is part of an amendment process that you will hear later.

SENATOR RUBENS: On page three, lines 21 and 23, "No liability" and part of the "directors' employees agents and the performance of their duties," Is that wise?

SENATOR LARSEN: I don't usually deal in the establishment of insurance review boards, so I don't know if that is standard language. I assume that if it is in there that it is wise because it has been reviewed by a lot of people and this is the recommendation by the Department of Health and Human Services. I understand that eventually, it will be the recommendation of the Department of Insurance. In both cases, they reviewed the bill and are comfortable with it. If I can go back to your first question. I do recall now, what his sixty-four thousand dollar's eligibility was. You have to remember that a family that has four children, that is a family of four maybe earning sixty-four thousand dollars a year, their health care costs could be as much as ten thousand dollars a year, being one-sixth of their income for the year could be going to try and provide coverage for their whole family. There are savings that will extend to the state in covering uninsured adults and children.

SENATOR SQUIRES: I am speaking strongly in favor of the motion of ought to pass. I spent a lifetime or twenty-five years anyway, dealing with issues of health insurance in New Hampshire. This is the first time a major attempt, that I am aware of, has been put forth to deal with the

problem of the working poor. There is clear data that shows that at 200 percent of the poverty level you cannot afford to buy any health insurance, you are stuck. Between 200 and 300, you can afford to pay something. Obviously the higher that you go, the more you can afford to pay. Nothing undermines the existing system more than this enormous number of people who pay nothing. It is a killer for the hospital, for the setting of rates, for people who do have health insurance and so on and so forth. This bill that you have before you, needs some modification, which I will speak to if I might at the appropriate time, but the concept is crucial. This is tied to a federal application for a waiver. The federal government is counting on us as a legislature, to make this possible. We are talking about one hundred and fifty million dollars that is going to come into the health care provider system, which will make a major impact in that system and in the lives of these people. So I strongly urge you to pass it so then perhaps I could speak to my amendment that fixes many of the problems that are in this bill.

SENATOR MCCARLEY: To echo a little bit of what Senator Squires' sentiments but also to say that I can't attest to twenty-five years of seeing this on a day-to-day basis, but I can speak again locally to a community that I come from that has a primary care clinic that since it has opened its doors one and one-half years ago, that over 70 percent of the people walking into that clinic with no ability to pay one dime for their health care. The clinic is struggling; therefore, the community is struggling, but more importantly, those parents and children are struggling. I think that it is important to know that this bill does not create an insurance company. It will purchase from existing carriers. It doesn't require any state funds and it won't be taking business from private carriers. I think that it also it will truly be addressing the issue of the one hundred and fifty or so thousand residents that we have that do not have any private insurance. I would strongly urge an ought to pass.

Question is on ought to pass.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Fraser, Rubens, McCarley, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Johnson, Patenaude, D. Wheeler, Francoeur, Danais.

Yeas: 19 - Nays: 5

Adopted.

Senator F. King offered a floor amendment.

1997-1494s

01/02

Floor Amendment to HB 723-FN

Amend RSA 126-I:7 as inserted by section 7 of the bill by replacing it with the following:

126-I:7 New Hampshire Health Access. There is hereby established in the office of the state treasurer a fund to be known as the New Hampshire health access fund. The New Hampshire health access corporation established in RSA 126-I:2 is authorized to accept public sector and

private sector grants, gifts, donations, and appropriations of any kind to further the goals of the corporation. Public sector appropriations shall be deposited in the New Hampshire health access fund and may be expended by the New Hampshire health access corporation to accomplish the purposes of RSA 126-I. The moneys in the fund shall be nonlapsing and shall be continually appropriated to the corporation. Other revenues of the corporation such as grants, gifts, donations, and participant premium payments shall not be considered revenue of the state, but rather shall be funds of the corporation to be deposited as determined by the New Hampshire health access board of directors. Notwithstanding any provision of law to the contrary, no state appropriations shall be used to fund the New Hampshire health access corporation.

Amend the bill by replacing section 9 with the following:

9 Applicability.

I. The commissioner of health and human services shall call the first meeting of the health access board, established in RSA 126-I:3 inserted by section 2 of this act, within one year of the granting of the medicaid waiver.

II. It is the intent of the general court that no state funds shall be used to fund the New Hampshire health access corporation established in RSA 126-I:2 as inserted by section 7 of this act.

SENATOR F. KING: I offer a floor amendment for HB 723-FN. The changes in the amendment are found on lines 13, 14, 22 and 23, "Notwithstanding any provision of the law to the contrary no state appropriation shall be used to fund the New Hampshire Health Access Corporation." And 22 and 23 are, "It is the intent of the general court that no state funds shall be used to fund the New Hampshire Health Access Corporation established under RSA 126."

SENATOR HOLLINGWORTH: Senator King, I liked most of your amendment, but I have a little problem with line 13. It says, "No state appropriation shall be used to fund the New Hampshire Health Access Corporation." We are looking for federal dollars and I am afraid with having that, although I agree that we shouldn't have state appropriations for the most part, I am apprehensive about putting that into the document that we are looking for the feds to give us some dollars back. That is one point. The second point is, that sometimes the state does have to put some funds into administration end, such as reporting to the feds and some of the other monetary things that they need to comply with. If there were some way that we could word that, I would feel a lot more comfortable about that one line. Is that something that we can work on? It is just that my problem, Senator, is that this is kind of "in your face" to the feds. I think that it might hurt us while we are looking for funding? The question is, do you see any problem there and are there anyways that we can address that little concern that I have?

SENATOR F. KING: I don't think that there is a way to address the question outside of not putting that statement in, relative to state funding. It is my idea that they do not need state funds for this and we should so stipulate. I have a concern that if we don't put this in then we may be spending state funds and that is the reason for the amendment.

Recess.

Out of recess.

Senator F. King withdrew his floor amendment.

Senator Squires offered a floor amendment.

1997-1504s

04/02

Floor Amendment to HB 723-FN-A

Amend the bill by replacing section 7 with the following:

7 New Chapter; New Hampshire Health Access Corporation. Amend RSA by inserting after chapter 126-H the following new chapter:

CHAPTER 126-I

NEW HAMPSHIRE HEALTH ACCESS CORPORATION

126-I:1 Purpose. Many New Hampshire citizens lack adequate access to health care services and experience diminished health outcomes because they cannot obtain affordable health insurance coverage. The purpose of this chapter is to address this problem by promoting the availability of affordable health insurance for persons who would otherwise be without coverage. Under this market-oriented approach, the New Hampshire health access corporation contracts with health insurers to provide the needed coverage. Eligibility is designed to include persons who can demonstrate that they are uninsured because they are without access to affordable coverage and to exclude persons who have access to other health insurance coverage that is within their means.

126-I:2 Definitions. In this chapter:

I. "Board" means the health access board established in RSA 126-H:4.

II. "Corporation" means the New Hampshire health access corporation established in this chapter.

III. "Health insurer" means any entity licensed to provide health insurance pursuant to title 37 or any other provider of health care services approved by the commissioner of the insurance department.

IV. "Medicaid waiver" means a section 1115 research and demonstration waiver application or a section 1915(b) freedom of choice waiver application approved by the Health Care Financing Administration.

126-I:3 Corporation Established. There is hereby created a body politic and corporate having a distinct legal existence separate from the state and not constituting a department of state government, to be known as the New Hampshire health access corporation to carry out the provisions of this chapter. The corporation is hereby deemed to be a public instrumentality and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of public and essential governmental functions of the state. The corporation shall be a private nonprofit corporation and shall have all the powers necessary to carry out the purposes of this chapter, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any public or private agency and to receive and accept from any source, contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of this chapter.

126-I:4 Health Access Board.

I. The powers of the corporation shall be vested in 16 members who shall hold 3-year terms of office as follows:

(a) A public member, appointed by the governor.

(b) A member of the house of representatives, appointed by the speaker of the house.

(c) A member of the senate, appointed by the president of the senate.

(d) The commissioner of the insurance department, or designee.

(e) The commissioner of the department of health and human services, or designee.

(f) Two representatives of the business community, appointed by the governor.

(g) One member appointed by the New Hampshire Hospital Association.

(h) One member appointed by the New Hampshire Academy of Family Practice.

(i) One member appointed by the New Hampshire Nurses Association.

(j) One member appointed by the Business and Industry Association of New Hampshire.

(k) One member appointed by the New Hampshire Medical Society.

(l) Four members-at-large, appointed by the health access board of directors.

II. The initial terms of office shall be as follows: the members in subparagraphs I(a) and (g) and one member in subparagraph (f) shall serve for 1 year; one member in subparagraph (f) and the members in subparagraphs I(h) and (k) shall serve for 2 years; and the members in subparagraphs I(i), (j) shall serve for 3 years. The other members in subparagraphs I(b), (c), (d) and (e) shall serve terms which are coterminous with their terms in office. Two of the 4 members in subparagraph I(l) shall serve for 1 year, one shall serve for 2 years, and one shall serve for 3 years.

III. The members shall elect annually from among their number a chairperson and such officers as they may determine. A member shall hold office until a successor has been appointed and qualified. Members shall receive no salary for the performance of their duties under this chapter, but each member shall be reimbursed for reasonable expenses incurred in carrying out duties under this chapter. Any such expenses by board members shall have prior approval by 7 members of the board of directors before reimbursement. A member of the board of directors may be removed for cause by the official who appointed that member.

IV. There shall be no liability on the part of, and no cause of action shall arise against, any member of the board of directors, or its employees or agents, for any action they take in the performance of their powers and duties under this chapter.

V. The corporation shall not be deemed an insurer. The officers, directors, and employees of the corporation shall not be deemed to be the agents of an insurer. Neither the corporation nor any officer, director, or employee of the corporation shall be subject to the licensing requirements of the insurance code or the rules of the department of insurance. However, the department of insurance may require that any marketing representative utilized and compensated by the corporation be appointed as a representative of the health insurers with which the corporation contracts.

VI. Except as provided in RSA 126-I:6, I, the board shall have complete fiscal control over the corporation and shall be responsible for all corporate operations.

126-I:5 Meetings of Board. Meetings shall be held at the call of the chairperson or when 5 members so request. Nine members of the board shall constitute a quorum and the affirmative vote of 9 members shall be necessary for any action taken by the authority. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the corporation.

126-I:6 Powers and Duties.

I. The corporation shall develop eligibility criteria and provider selection criteria which shall be approved by the legislative fiscal committee prior to their implementation by the corporation. Any subsequent modification of these criteria shall be approved by the legislative fiscal committee prior to their implementation. In this paragraph "eligibility criteria" means those criteria which adults must meet in order to participate in the program and "provider selection criteria" means those criteria that health insurers must meet in order to offer benefits under the program.

II. Following receipt of the approval required in paragraph I, the corporation shall take all actions necessary to implement the program, including but not limited to:

(a) Organizing purchasing groups to facilitate the provision of preventive health care services and comprehensive health insurance coverage to adults.

(b) Arranging for the collection of any premium, in an amount to be determined by the board of directors, from all participants to provide for payment for preventive health care services or premiums for comprehensive health insurance coverage and for the actual or estimated administrative expenses incurred during the period for which payments are made.

(c) Consulting appropriate professional organizations and establishing standards for preventive health care services and providers and comprehensive insurance benefits appropriate to adults.

(d) Establishing participation criteria and, if appropriate, contracting with a health insurer or licensed insurance administrator to provide administrative services to the corporation.

(e) Contracting with health insurers, in accordance with standards established by the corporation, to provide comprehensive insurance coverage and preventive health care services to participants.

(f) Developing and implementing a plan to publicize the New Hampshire health access corporation, the eligibility requirements of the program, and the procedures for enrollment in the program and to maintain public awareness of the corporation and the program.

(g) Securing staff necessary to properly administer the corporation. Staff costs shall be funded from such private or public funds as become available. The board of directors shall determine the number of staff members necessary to administer the corporation.

III. Coverage under the corporation's program shall be secondary to any other available private coverage held by the participant. The corporation may establish procedures for coordinating benefits under this program with benefits under other public and private coverage.

126-I:7 Adoption of Policy. The corporation may adopt policies, pursuant to its own procedures, relative to:

I. The conduct of its business, including the administrative and accounting procedures for operation of the corporation.

II. The procedures under which applicants to and participants in the program may have grievances reviewed by an impartial body and reported to the board of directors of the corporation.

III. Application procedures.

IV. Schedules of fees and other charges to be made by the corporation and the health insurers in renewing, acting upon, or accepting applications under this chapter and any other matters related to such applications as the corporation may deem necessary.

V. Confidentiality of medical records obtained under this chapter.

VI. Such other matters as are necessary to carry out the powers and duties of the corporation.

126-I:8 New Hampshire Health Access Fund. There is hereby established in the office of the state treasurer a fund to be known as the New Hampshire health access fund. The New Hampshire health access corporation established in RSA 126-I:3 is authorized to accept public sector and private sector grants, gifts, donations, and appropriations of any kind to further the goals of the corporation. Public sector appropriations shall be deposited in the New Hampshire health access fund and may be expended by the New Hampshire health access corporation to accomplish the purposes of RSA 126-I. The moneys in the fund shall be nonlapsing and shall be continually appropriated to the corporation. Other revenues of the corporation such as grants, gifts, donations, and participant premium payments shall not be considered revenue of the state, but rather shall be funds of the corporation to be deposited as determined by the New Hampshire health access board of directors.

Amend the bill by replacing sections 8-10 with the following:

8 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (ooo) the following new subparagraph:

(ppp) Moneys received under RSA 126-I which shall be credited to the New Hampshire health access fund established in RSA 126-I:8.

9 Applicability. The commissioner of health and human services shall call the first meeting of the health access board, established in RSA 126-I:4 inserted by section 7 of this act, within one year of the effective date of section 7 of this act or federal approval of the medicaid waiver, whichever first occurs.

10 Repeal. The following are repealed:

I. RSA 126-H:6, VI, relative to pilot sites.

II. 1993, 312:5 as amended by 1995, 258:4, relative to a repeal of RSA 126-H.

SENATOR SQUIRES: The hearing on this proposed legislation, Mr. President, was somewhat spirited. We encountered a difference of opinion between two departments that are intimately involved in this project. One is the Department of Health and Human Services and the other is the Insurance Department. It is not surprising that those two entities might take a different view of what is, in effect, an insurance program. On the other hand, there are issues relating to the application of the federal waiver that are more confined to the Department of Health and Human Services than they are to the Insurance Department and there are time frames involved and so forth in order to meet those requirements. Following the hearing last Friday, myself and Senator McCarley, the deputy commissioners of both departments, representatives of the industries and representative of the governor's office, met and discussed these issues. The fundamental problem was as Senator Wheeler pointed out, the eligibility requirements which at the high end, perhaps will cause a transition of patients currently enrolled in health plans into this plan. There are lots of terms for that, leakage, erosion, migration, but the general idea is that might occur at the high end. There are sound underwriting reasons why you need families at the upper levels of income to pay for those at the lower level income. I could explain that, but I don't think that it adds to the debate. So over the weekend, we had crafted among all of these parties, an amendment. Then Senator McCarley and I met with them this morning and further refinements took place, and it is this amendment that is in front of you. I would like to highlight four

points. We added a purpose clause, which you will find on line 7 of page 1. It defines what this is all about. Secondly, a significant issue in this program is where is the risk? And how do you decide with whom you are going to contract and what is the role of the Insurance Department with the contracted providers? So we fixed that question by line 19, page 1 that defines what a health care insurer is. The only entities that this new board can contract with are entities that have been approved by the Insurance Department. So the Insurance Department has jurisdiction over the providers of this care. We deleted from the present bill, the exemption from the premium tax. There was a discussion that if you had enough people enrolled in this plan, it might conceivably reduce revenues to the state, so to neutralize that, the premium tax issue came out. And finally, and perhaps most important, on page 3 on line 13, we added in language regarding the legislative Fiscal Committee that shall approve the criteria. In answer to Senator Rubens' question, the sixty thousand dollars figure come off of a family of four children at the 400 percent poverty level. Now that is not magic. The legislative Fiscal Committee might decide to lower that, which is fine, but at least it is under public purview and review. I think that those changes meet the needs of the various parties involved. I have talked to one of the providers this morning. They said that it was fine. I can tell you that although I agree in principal, in fact, I once wrote a grant application for a bare-bones health policy. It is very hard to do that. It is extremely hard, in fact, to decide what goes into a health insurance plan. The benefit package being offered is reasonable and it is not as good as some of the other plans, but it is a great start. I think that this amendment fixes the objections of the parties involved. I urge you to pass this. We can not send to the federal government, in my opinion, a message that we don't want to enact this program. Despite what you might think about ways of financing health care, there still is an enormous amount of people in New Hampshire without health insurance because they can't pay for it. This would make a start on that very important problem. Thank you.

Floor amendment adopted.

SENATOR RUBENS: I rise to offer a floor amendment. The amendment isn't published, but it consists of... for purposes of discussion, it consists of removing a paragraph. As soon as I find it... It is on page 2, lines 33 to 35. My amendment would be to strike that paragraph.

SENATOR DELAHUNTY (In the Chair): Senator Rubens, I have just been informed that our rules do require that you have an amendment prepared.

SENATOR RUBENS: I don't.

SENATOR DELAHUNTY (In the Chair): You don't.

SENATOR RUBENS: Is there a means by which I can discuss my concerns here?

SENATOR DELAHUNTY (In the Chair): Go ahead. I will allow you to speak to your concerns, but I have to tell you not to your amendment because you do not have one to present at this point in time. So I think that you must decide to speak to the issue at hand, which is Senator Squires' amendment.

SENATOR RUBENS: I am speaking to my concern here. I have just consulted with the Senate attorney and the paragraph reads, "There is

no liability or cause of action against any member of the board of directors or employees or agents for any action they take in the performance of their powers and duties under this chapter." That is a blanket relief from liability. It would remove liability for acts, for example, important investment of idle funds, selection of an insurer whose coverage or costs is not in the interest of the people of the state. I think that by virtue, the size of this program, we are talking about one hundred and sixty-five million dollars this is a very dangerous thing to do.

Recess.

Out of recess.

Senator Rubens moved to have **HB 723-FN-A**, establishing a New Hampshire health access corporation, continually appropriating a special fund, and allowing the Healthy Kids Corporation to cover adults, laid on the table.

Motion failed.

SENATOR RUBENS: I rise to make sure that the understanding was, the tabling motion was, for a few moments while an amendment was crafted in concert with the recommendation of the Senate attorney. Was that the understanding?

SENATOR DELAHUNTY (In the Chair): I think that was said in your motion, Senator.

Question is on ordering to third reading.

Ordered to third reading.

HB 765-FN, establishing an osteoporosis prevention, education, and treatment program. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-1456s

01/02

Amendment to HB 765-FN

Amend the title of the bill by replacing it with the following:

AN ACT establishing an osteoporosis prevention and education program.

Amend the section heading of section 2 of the bill by replacing it with the following:

2 New Chapter; Osteoporosis Prevention and Education.

Amend the chapter heading of RSA 126-I as inserted by section 2 of the bill by replacing it with the following:

OSTEOPOROSIS PREVENTION AND EDUCATION PROGRAM

Amend RSA 126-I:2, I as inserted by section 2 of the bill by replacing it with the following:

I. The department shall establish, promote, and maintain an osteoporosis prevention and education program to promote public awareness of causes of osteoporosis, options for prevention, and the value of early detection and possible treatments, including the benefits and risks of those treatments.

Amend RSA 126-I:2, V as inserted by section 2 of the bill by replacing it with the following:

V. The department, with the assistance of the advisory council, shall annually evaluate the performance of the osteoporosis prevention and

education program and issue a report of its findings and conclusions, together with the data collected pursuant to paragraph IV and recommendations for legislation, on or before November 1 of each year to the governor, the speaker of the house of representatives, the president of the senate, and appropriate committee chairs of both houses.

Amend the bill by replacing section 4 with the following:

4 Costs. The costs for the osteoporosis prevention and education program, established in section 2 of this act, shall be funded through any moneys collected under RSA 126-I:5 and any moneys available to the department of health and human services, provided that the total general fund expenditure shall not exceed \$100,000 for the biennium ending June 30, 1999.

AMENDED ANALYSIS

This bill requires the department of health and human services to establish an osteoporosis prevention and education program.

SENATOR K. WHEELER: House Bill 765 as amended, would establish an osteoporosis prevention, education, and treatment program, by the Department of Health and Human Services. Osteoporosis is a non treatable disease that reduces bone mass and renders bones so brittle that a person could easily fracture a back or a hip during an everyday activity such as making the bed. There is no known cure for osteoporosis. The only thing that we can talk about is prevention. An effective prevention starts with a good education. Many people still don't know how to avoid this disease. One misunderstanding is that it is an elderly women's disease. This is not true. We heard testimony at the public hearing from a woman who is far from elderly, who has the disease because of medications that she had to take to combat a serious illness. Now her physical life has become fragile because of bone mass deterioration. The cost for rehabilitation of an osteoporosis injury is exorbitant. The money to fund this program will come from within the department's own budget to promote public awareness on the prevention of osteoporosis.

Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Roberge moved to have **HB 688-FN-A**, establishing a committee to study all investigations of the late John C. Fairbanks and other members of the legal profession, taken off the table.

Adopted.

Senator Roberge offered a floor amendment.

1997-1509s

09/01

Floor Amendment to HB 688-FN-A

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. There is established a committee which shall study any and all investigations of the late John C. Fairbanks, attorney Charles E. Chretien, and the late William M. Hibbard. The committee shall consist of 7 members of the house judiciary and family law committee, appointed by the speaker of the house, and 3 senators, appointed by the senate president.

Amend the bill by replacing section 2 with the following:

2 Meetings; Mileage. The first-named house member shall call the first meeting of the committee within 30 days of the effective date of this section. The committee shall elect a chairperson at its first meeting. Committee members shall receive mileage at the legislative rate.

AMENDED ANALYSIS

This bill establishes a committee to study all investigations of the late John C. Fairbanks, attorney Charles E. Chretien, and the late William M. Hibbard.

SENATOR ROBERGE: This particular bill, coming over from the House, it is a committee to study the late John C. Fairbanks, attorney Charles E. Chretien, and the late William M. Hibbard. The House decided that the committee should consist of seven members of the House and no one from the Senate. It occurred to me, that a number of us would really like to see what they are doing and to see some oversight, not that we would have a majority vote, but we would at least be represented and have an oversight and probably have some input and a vote. My amendment would still keep the seven from the House and add three from the Senate. If it comes to that, I know that we are talking about people serving, I will even volunteer to serve in the spirit of cooperation.

SENATOR BARNES: I was going to ask you if would volunteer, but you have already answered that question and it is on the record, so thank you for volunteering.

SENATOR ROBERGE: You're welcome, Senator Barnes.

SENATOR BARNES: I think that it is not such a very good idea to have senators on the committee because the House committee already studied the Fairbanks affair for one whole year and you would be behind in information. They would have to start all over again. The bill came before us last year and we decided that none of us wanted to sit on the committee and to just give it to the House. That is what they wanted and we figured we would let them do it. It does involve a lot of time. I would not recommend it.

SENATOR D. WHEELER: I rise in support of the Roberge amendment and would also volunteer to serve on this committee should you see fit to pass this amendment.

Floor amendment adopted.

Ordered to third reading.

HB 773-FN, relative to intentional interference with child custody and visitation. Public Institutions, Health and Human Services Committee. Vote: 3-2 with one abstention. Ought to pass with amendment, Senator Francoeur for the committee.

1997-1450s

08/02

Amendment to HB 773-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to intentional interference with child custody and visitation and requiring expedited hearings on certain custody, visitation, and support issues.

Amend the bill by replacing all after the enacting clause with the following:

1 Parental Intentional Interference With Custody or Visitation; Grounds for Modification. RSA 458:17, V is repealed and reenacted to read as follows:

V. Repeated, intentional, and unwarranted interference by a parent who has permanent primary physical or permanent joint or shared physical custody with the visitation or custodial rights of the other parent shall be a basis for modifying physical custody without the necessity of showing harm to the child if the court finds that a change of physical custody would be in accordance with the best interests of the child. Except as provided in this paragraph, nothing in this section shall be construed to alter the standard for modification of a custody decree affecting physical custody of the child or children.

2 New Paragraph; Expedited Hearing on Issues of Interference With Rights of Physical Custody or Visitation, or Nonpayment of Child Support. Amend RSA 458:17 by inserting after paragraph XV the following new paragraph:

XVI. Any motion for contempt of a court order regarding physical custody or visitation or nonpayment of child support, if filed by a parent who has custodial or visitation rights pursuant to the court order, shall be reviewed by the court within 30 days.

3 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill revises certain provisions concerning intentional interference with child custody or visitation. The bill also requires an expedited court hearing on contempt motions relating to certain custody, visitation and support issues.

SENATOR FRANCOEUR: HB 773 revises certain provisions relative to intentional interference with child custody and visitation. This bill would put some teeth into the law regarding intentional interference with child custody and visitation. Repeated and intentional unwarranted interference by a parent shall be basis by the court to modify physical custody. Further, the bill requires that any motion for contempt of court order regarding physical custody or visitation or non payment of child support is to be reviewed by the court within 30 days. The committee recommends ought to pass as amended.

SENATOR K. WHEELER: I rise in support of the bill but in opposition to the amendment that came from the Public Institutions, Health and Human Services Committee. The amendment changed the word, "recurring" to "repeated" in a reason for changing the custodial arrangements. The House committee considered the language carefully and chose "recurring" and "unwarranted" to take care of circumstances when a parent might need to interfere with the other parent's custodial rights, such as if the child is in a soccer tournament and is not going to be able to go to dad's that weekend, the mother should not be penalized for this. By changing the language to "repeated" it could be just two times that some circumstance really beyond the custodial parent's control could occur and the custody would be affected by this. I don't think that was the initial intent of the law. I do not think that it improves the bill, in fact, I think that it takes a great deal away from the bill. I oppose the changing of the word "recurring" to "repeated."

SENATOR D. WHEELER: I have spoken to the representative that came to the committee to support this bill, and they will support the Senate's

amendment changing the word "recurring" to "repeated." In both instances, the interference has to be unwarranted. So the House has agreed to this change and would accept it. I might add that both the words, "recurring" and "unwarranted" are already a compromise from the Senate version that does not include either one of those words that are in, I believe, SB 92. So we would ask your support for the change of that one word. Please pass the amendment.

Amendment adopted.

Ordered to third reading.

HB 186-FN, relative to fees for number plates and reducing the amount of the inventory fund in the department of safety. Transportation Committee. Vote: 4-1. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: House Bill 186 amends current law to show a \$1 million ceiling in the reflectorized plate fund of the Department of Safety. Since the department has never approached the present cap of \$2 million, the number plate fees are also increased from \$1.50 to \$2.50 to cover the cost of production. Testimony indicated that the cost of aluminum has gone up significantly since the last increase in this fee in 1985. Additionally, the fund needs to be replenished because it was drawn upon to fund the department's new \$750,000 storage building last summer. The Transportation Committee recommends passage of HB 186.

Adopted.

Ordered to third reading.

HB 273-FN, increasing the age that child passenger restraints are required from 12 years of age to 18 years of age. Transportation Committee. Vote: 4-1. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: This bill seeks to change the age from 12 to 18 and raise it for mandatory wearing of seat belts. There was extensive testimony in favor of the bill. Various highway safety officials, a number of parents, who unfortunately have lost a child, law enforcement experts and so on, testified, doctors in emergency trauma centers testified extensively about this bill. Some twenty-six children in recent years have died, ages 12 to 17 and a very small number were wearing seat belts at that time. Statistically children at this age group are the highest risk takers and frequently do not wear passenger restraints because of a sense of physical invincibility and influence of peer pressure. Now aware of these alarming statistics, the Transportation Committee agrees that the state has a responsibility to try and act to protect as many children as possible by increasing this age by mandatory seat belt use. Clearly, the statistics showed that the number of kids that more than likely have survived was substantial. It is hard to argue with that statistic, particularly in an age where that particular time in kids lives, they are not necessarily exercising good judgment. We would urge you to vote for the bill.

SENATOR BARNES: Senator Russman, during your committee hearing on this or somewhere else, have you been given a number of citations that have been given out to people... when we raised it to 12 a few years ago? Is there some kind of track record? Did the Department of Safety tell you or give you any numbers on how many tickets have been given out since that law was passed?

SENATOR RUSSMAN: I don't know if they did. Perhaps somebody else on the committee would, they may have a better recollection than I do,

but I don't remember hearing that statistic, although of course, I was, at times, in your committee that afternoon as well, so I may have missed it, as well as being in the Facilities Committee at the right time, so I may have missed it. At the same time, Senator Barnes, the information that I heard, was overwhelmingly that most of these kids... not just would have survived, but the doctor from the Parkland Medical Facility testified extensively to the number of young people that he had to treat that have come in from automobile accidents. He said that just huge numbers had much, much, much, much, less incidents of injury that were belted in than the ones that were not.

SENATOR BARNES: Would you believe that I am having problems...

SENATOR RUSSMAN: I would believe that, Senator.

SENATOR BARNES: I am going to get even with you before the day is out.

SENATOR RUSSMAN: I am sure.

SENATOR BARNES: The reason that I asked that question is because I hate voting on feel-good pieces of legislation, and nobody from the committee has gotten up and said that they would answer Senator Barnes' question on how many tickets have been given out since that bill is in. I think that is a parents job, number one, to do that. I know that it is very difficult for me. I know that if I had some numbers, I could see that what we put in place was working. I would feel a heck of lot better voting for this bill, with that information. Would you believe?

SENATOR RUSSMAN: I would believe that, but I can tell you this, that the years prior to it going to 12 years of age, the statistics showed in terms of fatalities and injuries, that they were higher for several years before we went into effect up to 12 years old. So clearly it has had an impact and now it is much lower. So clearly, there are some statistical data that shows that after it went into effect at age 12, the reduction of injuries was substantial. So it does follow that to do it to 18 would do that. Now you have to keep in mind that these kids that may get ticketed or what have you, would certainly incur probably points on their license regarding the point system. So that they may at some point face a potential loss of license for this as well, if it recurs. So those things taken into consideration, I think, you are going to see young people start to wear their seat belts more and more when they realize that is the law. It is one of those things, that yes, sure there will be some that won't. I grant you that, but I think, by and large, the vast majority will when they know that. Matter of fact, they even show in the statistics that there is a bump right around 16, from the 12 to the 18 year olds, there is a bump in the statistics because of the driving education class that there is a bump that they start to wear them and then it slacks off again after that, after the exposure of the class goes by. Certainly, the information is clear that they do respond to it, and it will save some lives and potentially, a lot of injuries and a lot of medical bills.

SENATOR BARNES: Senator Russman, thank you very much.

SENATOR JOHNSON: Senator Russman, if the proponents of this legislation are serious about it, why is it always only as a secondary action?

SENATOR RUSSMAN: As opposed you mean to?

SENATOR JOHNSON: As the bill is written, shall be accomplished only as a secondary action. Why do you approach... why do the proponents approach it that way rather than a violation?

SENATOR RUSSMAN: I think that it is a matter of policy and politics in terms of trying to get legislation passed, so that it doesn't appear more onerous perhaps, than it was in the first instance. I think that it may be concerned that it would be overreaching.

SENATOR JOHNSON: Thank you.

SENATOR PIGNATELLI: A few statistics to help support my urging the passage of this bill. "Automobile accidents are the number one killer of our teenagers in New Hampshire. New Hampshire's teens have the ninth highest fatality rate in the country. Expanding the seat belt law to include all children under the age of 18 would include newly licensed drivers who are the highest risk of any age group for crashes. Teens make up only 5.8 percent of our driving population, but represent 14.9 percent of our fatalities. The teen population is growing so that we can anticipate that these figures will be going higher. This may relate to your question, Senator Barnes, although it isn't a specific answer. On average, 2.5 children under the age of 12 have been killed in accidents on New Hampshire highways over the past six years. An average of 13.5 older children have been killed during the same time period. Seat belts could have saved many of these children. Good public education and enforcement are necessary to achieve the goals of seat belt use by all young people in passenger vehicles. But education itself is not enough. That is evident here in New Hampshire where nearly half of all motor vehicle occupants do not use their safety belts. In December of 1996 the use rate for occupants of all ages was only 56 percent in New Hampshire. HB 273 is about saving lives of our teens during the times that they are the most vulnerable, and I urge passage of this important piece of legislation.

SENATOR ROBERGE: Mr. President and members of the Senate, I am very proud to be a cosponsor of this piece of legislation, particularly as a parent. When my son got his license, he had it for a few months and he was driving from hockey practice in the morning to school and he has three other young men with him, and also being a new driver, he was on Coolidge Street in the Northwest section of Manchester, and it was a winter day and the roads were bare and dry. Being an inexperienced and young driver, and these young men were all buckled in, he went too near the edge of the street and hit a patch of ice and the car fishtailed and the back end of it hit a tree. All four of them, as I said, were buckled in and the car was totaled and nobody had a scratch. That convinced me that seat belts do work.

SENATOR LARSEN: I don't have the statistics that Senator Pignatelli was able to offer, but I share Senator Roberges concern as a parent. I have it from the best of authorities which is the 12-year-olds of this state. I regularly drive around car loads of 12-year-olds, because besides doing this, I am still a mother of a 12-year-old. During those talks, we ride along and I say, "What do you think, what is the message that the state gives you when it says that after age 12 you don't have to wear your seat belt, it isn't mandatory?" Many of the times when the 12 years have gotten into my car and they have said "well next year, I don't have to buckle up. The state says that I don't have to." The message that we are sending our children needs to be "Buckle Up" and this bill does it. It is important to support it. The best of authorities is the 12-year-olds of this state.

SENATOR GORDON: I brought with me today, a copy of the Concord Monitor, the Lakes Region Edition, and in the headline they have a by-line from Belmont, which is Senate District two. The headline on the

Lakes Region edition of the Concord Monitor reads, "Belmont family mourns after Laconia teen dies in crash, seat belt could have made the difference." Thank you, Mr. President.

Senator Barnes moved the question.

Adopted.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Fraser, Rubens, McCarley, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: Johnson, Patenaude, D. Wheeler, Francoeur, Danais, Delahunty.

Yeas: 18 - Nays: 6

Adopted.

Ordered to third reading.

HB 455-FN-L, relative to a preliminary breath test for alcohol concentration. Transportation Committee. Majority report; Vote: 3-1, Inexpedient to legislate, Senator Whipple for the committee. Minority report; Vote: 1-3, Ought to pass, Senator Pignatelli for the committee.

SENATOR WHIPPLE: House Bill 455 proposes to allow the results of a preliminary breath test to be used as admissible evidence by the prosecution to establish probable cause for subsequent arrest. The Transportation Committee voted this bill as inexpedient to legislate because we felt that law enforcement presently has enough effective tools to make this determination. Right now, officers can request that drivers take field sobriety tests. Although a driver may refuse this test, the officer still has the ability to make the arrest and if that arrest leads to a conviction, the driver can lose his license for up to 60 days for refusing a field sobriety test. Since the bill was preliminarily introduced to aid in the battle against underage drinkers, we had additional concerns that the use of preliminary breath tests would encourage law enforcement officials to begin a process of random stops simply based on a driver's age. The Transportation Committee recommends HB 455 as inexpedient to legislate.

SENATOR PIGNATELLI: There was a time years ago that the fight against driving under the influence was not as effective as it is today. That was when our police officers did not have the breathalyzer equipment that they have now. The breathalyzer technology was a major advancement in fighting DWI and saving lives on our highways. The bill that we are considering today, deals with another advance in technology, not so significant as the breathalyzer, but helpful nonetheless. The preliminary breath test is a good tool that we should afford our law enforcement officers. I have one of these preliminary breath test machines and I would like to show it to you and explain how it works, although I am not going to blow into it.

SENATOR BLAISDELL: Ten years ago, you couldn't have let four senators blow into that thing.

SENATOR PIGNATELLI: This is what one of the preliminary breath test machines looks like. The police would use this after they had probable cause to stop someone for driving. Someone might be weaving over the line. They need to have an articulate probable cause before they can stop someone, that is the law now. When they stop someone, they can conduct sobriety tests. You can walk a straight line, you can try to touch your finger to your nose and those give indirect evidence to the police officer of your being under the influence or not. This breath test would give the police direct evidence that could not be used in court and could only be used if there was a hearing to suppress evidence before going to trial. The tool works both for the police and for the driver who is not under the influence. It would remove some of the officer's doubts whether he or she should bring the driver into the station for a full breath test. In many cases, it would work to the advantage of the driver, because if the preliminary test indicates a low reading, the driver would probably not be brought in for no good reason. It saves him the time and embarrassment and it saves valuable time of the officer. This bill was also supported by the Fish and Game Department because the preliminary breath test is a compact device that their officers can carry with them on OHRV trails to conduct on-site testing. Field sobriety tests that are commonly used are not practical for OHRV enforcement and the same is true for boating efforts. If Fish and Game safety people suspect someone who is operating a boat is under the influence, they can't have them do a field sobriety test out of the waters and this would help. If the reading of the preliminary test is a high blood alcohol content, it is almost a certainty that the driver will be brought to the station. But the reading of the blood alcohol TAPE INAUDIBLE court. I have recently been talking to Peter Thomson who is the coordinator of the state of New Hampshire office of the Governor's Highway Safety Agency and he assures me that although these breath machines cost in the range of \$450 to \$500 each, their agency would be willing to fund these as they do funding for radar and police cars and cruiser videos in the cars and as they fund breathalyzers now. So although the committee voted 3 - 1 against this bill, I believe that was a rare mistake of the committee and urge the passage of this bill. Thank you very much, Mr. President.

SENATOR K. WHEELER: Senator Pignatelli, I wonder if you've had similar experiences to the one that I had last night when the chief of police of Dover called me and urged me very strongly to support this saying that the police chiefs really needed this tool in their on-going fight against drivers who are intoxicated. I was just wondering if you had similar experiences?

SENATOR PIGNATELLI: Well, I was at a meeting yesterday at the Nashua Police Department, and I had asked Captain Bailey about the use of this and he said that it would help the police in their efforts to determine whether they ought to bring someone in for a breath test to the station. So I urge passage of this bill to allow police officers to have this one additional tool to determine whether someone is driving under the influence. Thank you very much.

SENATOR FRANCOEUR: Senator Pignatelli, I feel a little bit confused here because a little while ago, Senator Squires tested this out and he ended up at .04. Was there something he did wrong in the test?

Recess.

Senator Johnson in the Chair.

SENATOR PIGNATELLI: I told him that I would not say that on the floor. I know more about stomach acids and fermentation in the stomach than I ever thought I would know, than I even wanted to know. What happens is we have a zero tolerance now, but under twenty-one, unless you are a .02 or above, and you can be a .01 and not be convicted of driving under the influence because there are certain chemistries going on in our bodies that produce fermentation and allow someone who is not intoxicated to blow a .01 or .02 or .03, or Senator Squires case a .04. Now Senator Squires and I were eating root beer barrels to beat the band and mints earlier and it is my understanding that sugar in the system, can cause additional fermentation in the stomach acids and lead to....

SENATOR COHEN: Senator Pignatelli, I believe that I heard you say in your testimony just now, that this would be used after probable cause had been established. My recollection of the testimony in the hearing was that this would be used specifically to establish probable cause where none previously existed?

SENATOR PIGNATELLI: Just one moment please.

SENATOR COHEN: Trust me on this one.

SENATOR PIGNATELLI: Let me just read this one paragraph, "A preliminary breath test device is a very accurate screening device used by police across this country to detect alcohol impairment. Over 40 states in the United States permit the results of preliminary breath tests into evidence in court. In other states, the results can only be used to establish probable cause for an arrest. In New Hampshire, the results can not be used against an impaired driver in any situation even when the impaired driver argues that his or her arrest was unlawful."

SENATOR COHEN: I can tell you that at the committee hearing that it was very clear that this would be specifically to establish probable cause **TAPE INAUDIBLE**.

SENATOR BARNES: I am a cosponsor on this piece of legislation. I was asked by Representative Christie who is up top there watching the proceedings and listening. Before I agreed to go on as a cosponsor with him, I conversed with either 12 police chiefs or officers, some of each in the 12 communities that I represent. I went a step further because the attorney general's office, John Stephens' was a big help when we had the .08 debate a couple of years ago, and I somehow got involved with that. So I went to him. After listening to the folks that I talked to, I decided that I would be very happy to go on to this piece of legislation. I feel that it is another tool to perhaps save lives, and as you all know, Senator Blaisdell who I always listen to, a little bit earlier on a piece of legislation, said, "if it saves one life, it is worth it," and Senator Blaisdell, I think this is going to save more than one life. That is the reason that I am strongly in favor of overturning the committees... it is the only time that they have made a mistake this year, from what I hear from the chairman. I would like to help the chair-lady overturn the report of her committee.

SENATOR PIGNATELLI: Senator Cohen, I will read from the testimony report. "Supporters testified that use of this device would not permit police officers to make random stops because they must still have a reasonable articulable suspicion such as veering over the yellow line prior to making a stop. The preliminary breath test would only be used if the officer has a reason to believe that the driver may be impaired and they may use it to establish probable cause."

SENATOR RUSSMAN: The law itself indicates that the general court intends to facilitate the enforcement of these provisions by allowing the results of the preliminary breath tests to be admissible as probable cause to arrest the operator. So I mean, it is going to be used to establish probable cause for the arrest, but the reality of it is, you have an instrument that is a size of a pocket tape recorder, it is susceptible to a lot of things. The Intoxilizer five thousand, that is what most of them are using, it is a precision instrument and it is in a controlled environment. It is pretty darn accurate and it is hard to question it. I sat in Exeter District Court this Friday of this week and talked with a state police officer. I won't say who it was but a state policeman who was there, and I actually talked to him in terms of what we were doing on DWI and he actually said, "I wish that the legislature would stop fooling around with it, it is working and we are bringing it down. Every time that you people change it, it complicates it a little bit for everybody in terms of what should and shouldn't be done." The issue is of probable cause, you have articulate suspicion to stop somebody, I mean that can be for almost anything. If your plate light is out, if you are weaving within your lane, you don't have to go over the yellow line, speeding or anything like that will result in probable cause to make the initial stop. The order of alcohol whether it is glassy eyes, slurred speech or whatever is additional probable cause and they have you get out and they do what they call the proof fail sobriety testing that they do on you. I mean there is ample opportunity. The problem with this thing as I see it, is that it says in here that if you don't take it, you automatically lose your license. It is just like the ALS hearing that we passed not too long ago, the Administrative License Suspension System where you lose your right to operate for six months, regardless of whether you are found guilty or not. So you lose your license for six months for refusing that test. On this machine, that if he happens to drop it at any time, we are talking about a precision instrument here, this is not just... this is much more precise than a hand held tape recorder, I wish I could say to you. It is going to measure this in an accurate manner. I think that with all due respect to the manufacturer, I am sure that they would tout it as being highly accurate and not able to make mistakes, but the enforcement on DWI is out there. It is one more thing, I think, to complicate the level of DWI apprehension and arrest, and I think, that the committee report is certainly appropriate under the circumstances. I say that knowing that I probably would get more business, frankly, if we actually used that instrument perhaps, in some fashion it could be argued. But at the same time, there is certainly plenty of probable cause once they do the field sobriety test to take you into the actual breathalyzer that they now use and that is the way that it should be, in a controlled environment because it is such a precision instrument.

SENATOR HOLLINGWORTH: Senator Russman, you said that someone told you that the police officer... I didn't get who you said...

SENATOR RUSSMAN: A senior state policeman.

SENATOR HOLLINGWORTH: I wonder why there seems to be a conflict there. I heard from my police chief in my district or at least several of them who strongly supported this. I am not quite sure why there seems to be two versions. At the hearing, did you hear support from other police chiefs?

SENATOR RUSSMAN: There is no questions that these communities or many of them, are in support of the hand held machine. I just question

it as someone who is familiar with it, in terms of the reliability of it to actually take someone's license away, and use it even as a basis for probable cause. I much prefer to have them do the physical test. The walking and the yellow line, the standing and balancing on one leg, what they call a gaze nystagmus where you have to follow a pen light back and forth to see if the eyes track it smoothly. Things of that nature that they are actually a physical test that they give people, rather than to rely on this little machine that hopefully it is working well that day and the batteries are all set to go on it and it is okay. The license is an important thing for people, and it ought to be, I think, based on physical evidence, as opposed to just that machine there establishing a probable cause to make an arrest. They could just use that and do nothing else, no physical test would be necessary. I think that is not giving the people a fair shake in terms, that are getting stopped.

SENATOR PIGNATELLI: Senator Russman, isn't it true that if a teenager blew a .02 on this machine, which I understand is very accurate, but like all machines, can make mistakes, isn't it true that the officer would bring them into the station, and would watch them for 20 minutes and then give them the more accurate breathalyzer test and if it showed that they were not at point .02, then they would let them go?

SENATOR RUSSMAN: I would hope they would do that. I would expect that they would do that, but I don't know that. In other words, I don't know... the other thing that we would get into with all of the breathalyzer stuff that is going on, is whether people are on the way up or on the way down in terms of the alcohol BAC in their blood at the time. Now whether they are going to use this to try and track it and say that 20 minutes or 30 minutes later, they are going to transport them to the station and wait the 20 minute waiting period whether or not they are going to say, "well if it said .02 on the road but it is an .04 or what have you at the station" I am not sure how that is going to be used or what have you. In theory, they would make the arrest based on that one item. I have had cases where it has been an hour to an hour and a half later that they actually can do the test at the station, because perhaps the one at their station is down and they have to take them somewhere else and wait for a certified operator to come to the station. It is very possible at the time they are stopped that their blood alcohol might be one thing, and then later on, it could be another. In other words, if somebody is on the way home and it comes up a .08 and then an hour later when they take the test, it is a 1.0 they are going to arrested whereas if they were on their way home, they may have actually been home before they were actually over a legal limit, say they were an .07 or something. They can still take somebody in even if it is not an .08, they can still make the arrest if they want to try and do that, because there are questions there of whether they may have drugs as well as alcohol. It gets very complicated in that respect. I don't think that you can take that one little machine, a hand held machine like that, and tend to base a case on it to take someone's license away. That is a big deal these days.

SENATOR WHIPPLE: Senator Cohen, would you believe that during the testimony many times it was expressed why they wanted this and it was to establish probable cause? If you look at the analysis of the bill it says that the results of the preliminary breath tests to be administered as evidence by the prosecution to establish a probable cause for a subsequent arrest." In the bill itself on page two, line 22 and 23, it says, "The results of this test may be admissible in evidence by the prosecution to establish probable cause for a subsequent arrest." That was the reason for it. Would you believe that?

SENATOR COHEN: I absolutely would believe it, which is one reason why I am opposed to it.

SENATOR SQUIRES: I felt that I must rise since my alcohol breath level having been reported in the Journal of the Senate, and I see the press sitting over here. I had for breakfast, Raisin Bran and some low fat milk and a lot of coffee. I have a witness that I can bring forth if I need to. I am not intoxicated on the floor of the Senate. Thank you.

Question is on the motion of ought to pass.

Motion failed.

Question is on inexpedient to legislate.

Adopted.

HB 455-FN-L is inexpedient to legislate.

Recess.

Senator Barnes in the Chair.

HB 459-FN, establishing a youth operator's license for persons under 18 years of age. Transportation Committee. Majority report; Vote: 3-2, Ought to pass with amendment, Senator Roberge for the committee. Minority report; Vote: 2-3, Inexpedient to legislate, Senator Patenaude for the committee.

1997-1420s

03/09

Amendment to HB 459-FN

Amend RSA 263:14, II(a) as inserted by section 1 of the bill by replacing it with the following:

II.(a) The director shall issue a youth operator's license to applicants who are 16 years of age or older and under 18 years of age. In addition to any other requirements established by law, no such license shall be issued unless the applicant furnishes written consent from the applicant's parent or legal guardian and a certificate of successful completion of a driver education course as provided in RSA 263:19.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Driver's License Fees. Amend RSA 263:42, I to read as follows:

I. For each **youth operator's or** original driver's license and examination or driver's license renewal, other than for a commercial vehicle - \$32; for each original commercial driver license and examination or commercial driver license renewal - \$42; for each commercial driver license reexamination in a one-year period - \$20; for each commercial vehicle endorsement, renewal of an endorsement or removal of a restriction - \$10. For each original driver's license issued, \$5 shall be credited to the driver training fund established by RSA 263:52. Every license shall expire on the licensee's birth date in the fourth year following the issuance of such license. No fee collected under this paragraph shall be refunded once an examination has been taken or a license issued, except as provided in RSA 263:43.

SENATOR PATENAUDE: Please ask yourself, what is the problem that we are trying to address and does this bill solve the problem? Although the intent is admirable, this bill does not do what its sponsors claim. It does not guarantee that a youth will gain valuable experience before

driving alone. After taking driver's education and earning a driver license, a licensee may have to wait three months before they are allowed to drive again unless they have someone to accompany them who is over twenty-five-years-old. Today we know that many households have both parents working and our leisure time is very limited. I believe that many new licensees' recently learned skills will be forced to become rusty while waiting for this time to pass. If more experience is desired before granting a license, why are not other alternatives such as driving hours or night time driving be required for driver's education or lowering the age that a driver can begin practice driving with a parent before beginning driver's education? Please consider what effect this will have on a newly licensed youth who would like to have a summer job that they need to drive to. As one parent told me, how will my child earn money to attend college if they can't get to work this summer, prohibiting driving between the hours of 1 a.m. and 5 p.m.? If we want to get problem drivers off the road, why were these hours chosen instead of 9 p.m. till midnight? I can't think of a better time to have an inexperienced driver on the road. I am home in bed, aren't you? Seriously, youths will pay a disproportionate fee for their license because they are limited to driving only 20 hours of each day. A youth can not drive during these hours even if they are accompanied by their parents. Think of all of the places that you have to leave by 4 or 5 a.m. if you need to arrive by 7 or 8 a.m. A UNH student home for the weekend, trying to make it to his Monday morning class. Picking your parents up at Logan Airport. A fishing trip up north. I think the list here is endless. This restriction is for two years. The most dangerous aspect of this bill is its potential for grave civil rights abuses. In order to stop a vehicle an officer needs probable cause. For example, defective equipment or a traffic violation. Under the provisions of this bill, an officer would have probable cause merely because an operator looked youthful. Looked youthful. This would also apply to the twenty-five-year-old or older companion, the licensed responsible adult. Lastly, this bill punishes good kids. Why are teenage girls treated the same as teenage boys? Why are youths with good grades treated the same as those that don't? The insurance companies don't consider these groups to have the same risks, right Senator McCarley? Youths' respect the privilege to drive. Existing law of taking youths licenses for any violation should be given a chance to work. Please vote this legislation as inexpedient to legislate. Thank you.

SENATOR FRASER: Senator Patenaude, I guess that you obviously, attended the hearing. I would like to know the rationale for legislation that would grant a license to a young driver and then make them wait 90 days before they can drive on their own? What was the reason for that?

SENATOR PATENAUDE: I believe the sponsors would like to think that these youths, these newly licensed drivers, would gain more experience with an adult. But it doesn't guarantee that, as I said, if there is no adult to drive with this youth, they could possibly have to wait three months while their skills get rusty. I agree with you. Why are we granting them a license? I think that there is a better way that we could resolve that. I would be willing to work with other senators to file legislation next year to come up with some ideas that will really work and help get more experience and make our roads safer. Thank you.

SENATOR D. WHEELER: As you know, I have a 15-year-old daughter Sarah and she asked me to ask the Senate these questions. I am hop-

ing that you can help, Senator Patenaude. She wants to know why, because she intends to be a responsible driver, that she can't take her grandparents to the airport early in the morning? She also wants to know what she is supposed to do if she gets a flat tire at 12:30 at night on a secluded road and fixes the tire, but can't drive home? Is she supposed to stay stranded on a dangerously secluded road? She also wants to know why people would punish her, being a responsible driver and not focus that punishment on irresponsible drivers?

SENATOR PATENAUDE: Thank you, Senator Wheeler. Those are tough questions to explain to your daughter if we do pass this legislation today. As I pointed out in my testimony today, I think those are fair considerations to make to decide to make this bill inexpedient to legislate. I hope that we do. Thank you.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill is about protecting our young people. The larger majority of us in the Senate are parents and we know when we all first started driving, we had several difficult months after we had our license, we had maybe rather close escapes and thank heavens we were able to correct at the time and not get hurt; however, there was a period of time when we could have used more experience driving with an experienced driver rather than being sent out on the road with a license to drive and without sufficient experience. To that, I will address my remarks. House Bill 459 creates a graduated driver's license program for persons under 18 years of age. A graduating licensing system enables teenage drivers to gain experience behind the wheel under low-risk driving conditions before attempting more challenging driving conditions. House Bill 459 imposes a curfew on young drivers between the hours of 1 a.m. and 5 a.m. That is not to say that they can't be out in a car. They just have to be a passenger and not the driver of the car. It limits the number of passengers allowed to accompany a youth operator to the number of safety restraints available in the car. If you have four safety restraints, you can have four passengers. You can not have five. It requires adult supervision for ninety days before a teenager can drive independently. All of these measures were proposed in response to the increasing number of teenage related accidents that have occurred in New Hampshire in recent years. Between 1994 and 1996, 47 people have been killed in motor vehicles involving a teenage driver. Thirty-eight percent of these teenage drivers involved in these fatal crashes, had their licenses for less than three months. Something has to be done to reverse these alarming trends. House Bill 459 is a tremendous step in that direction. The Transportation Committee strongly encourages you to recommend ought to pass.

Recess.

Senator Delahunty in the Chair.

SENATOR PATENAUDE: Senator Roberge, would you believe that I agree that something has to be done, but something should be done that is going to be effective and add experience? I mean there must be something that we could do like require a higher passing grade other than 70 percent to pass driver's education. Wouldn't that be more effective?

SENATOR ROBERGE: I would go for both solutions, but not one or the other.

SENATOR PIGNATELLI: I urge the Senate to look favorably upon this bill. It seems like a week doesn't pass by without the media reporting on yet another accident involving young drivers. This presents us with

a difficult problem, one that is not easily solved; yet, this bill is a good step forward. Rather than presume that every newly licensed driver is a good driver and is entitled to all of the privileges to use the public highways, this legislation takes a more realistic approach at a youth's ability to drive cars safely until they have a good deal of experience. We know that it won't prevent every accident, but it sure will prevent some. For every sixteen-year-old newly licensed driver who will be disappointed if this bill passes, there will be far more parents and adult drivers who will applaud it. I hope that the Senate can support this step to make our roads safer for everyone. Thank you very much.

SENATOR HOLLINGWORTH: Senator Pignatelli, would you believe that I live on Winnacunnet Road that is a major street in Hampton, and it is one house away from Park Avenue that is the street that the high school is on? That intersection of Winnacunnet and Park Avenue has the most accidents of any street in the community. One of the times we had a fatal accident where someone was killed, I questioned the police department about this and they said that the reason is that the inexperience of the drivers that are using that road. This piece of legislation, do you believe, would help address that inexperience?

SENATOR PIGNATELLI: I think that it is one way that we can address that. Thank you.

SENATOR K. WHEELER: I rise in strong support of this very important bill to help save the lives of some of our teenagers. When Senator Patenaude asked what is the necessity for a legislation of this nature? There are statistics that tell you why we need it. The crash rate per million miles driven for 16-year-olds is eight times as high as it is for older drivers. In statistics of death rates by age, drivers age 16, this is all U.S. drivers for 1994. The fatality rate per one million miles traveled, was 14.6 for 16-year-olds. It drops dramatically for 17-year-olds to 5.3. It continues to go down until you reach eighty-five plus, then you are in deep trouble. It is even worse than when you were 16. I guess they may need to deal with the other end of the spectrum at some point. When I was talking to various teenage groups about this, which was really not the highlight of my legislative life, but one of the questions asked was, "Is it just because they are beginning drivers?" So I asked that of Elaine Frank at the Injury Prevention Center and she said, "No, there is a big difference between 18-year-olds even as beginning drivers in their crash rates then from 16 and 17-year-olds. There is something about the youth." Here in New Hampshire, we had 11 teenagers killed in car crashes in 1996. Three of those were drivers of the vehicles and they were TAPE INAUDIBLE to the fact that it is penalizing people. It is penalizing girls or it is penalizing good students. Most young drivers in fatal crashes do not have prior traffic violations or crashes on their record. We need to address all beginners regardless of gender. I was a much riskier driver than my brother and for any of you who had the opportunity, I am not sure that it was an opportunity, but who saw the video tape that was presented at the hearings on this, one of the really moving things was a 16-year-old teenage girl who was killed within days of getting her driver's license. Her parents are testifying about this law. She was a cheerleader, a great student. You can have driving risks regardless of your gender, regardless of your grades. It is inexperience and the way teenagers behave. Think of yourself at 16. I bet you are a better driver now. I don't like to think of the way that I drove when I was 16 years old. To say that you might not be able to get a job to pay for

college, you may not live to get to college driving the way that a lot of these 16-year-olds drive. As far as the curfew goes, use common sense. If you get stuck on the highway repairing your car, and you got to drive home during the curfew, do it. A policeman is not going to arrest you for that if you have a logical reason, that is common sense. We don't legislate against common sense. As for the days of experience, I presume that we all got a letter from the driver education teacher who said how important he felt that 90 day's experience was. I know in the case of my younger daughter, we had to have 90 days, it was accidental, but she couldn't get scheduled for her driver's education final test, and I had to drive with her for 90 days. That experience really helped. As I said to the teenagers at the high schools that I talked to, we are not talking about renting a 25-year-old to ride around with you. If your parents aren't available to come, you may have a grandparent, you may have an aunt, uncle or cousin. It isn't going to be impossible to find someone for three months to help you get that experience. This is an important bill. The last thing that I want to say is that I found it exciting to agree with the cartoon in the Union Leader. It shows a teenager coming home and saying to his parents, "Give me one good reason why they are cracking down on us teenage drivers?" and the father is saying, "How about we like having you around." That is why we do this, because we love our children.

Senator Barnes moved the question.

Adopted.

Question is on the committee amendment.

Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Gordon, Johnson, Rubens, McCarley, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Danais, K. Wheeler, Hollingworth.

The following Senators voted No: F. King, Fraser, Patenaude, Whipple, D. Wheeler, Francoeur, Delahunty, Cohen.

Yeas: 16 - Nays: 8

Adopted.

Ordered to third reading.

HB 462-FN, requiring the department of safety to inform persons under 21 years of age of the DWI laws. Transportation Committee. Vote: 5-0. Ought to pass with amendment, Senator Patenaude for the committee.

1997-1430s

03/02

Amendment to HB 462-FN

Amend the title of the bill by replacing it with the following:

AN ACT requiring the department of safety to inform persons under 21 years of age and first-time New Hampshire driver's license applicants of the DWI laws.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Section; Informing First-Time Applicants of the DWI Laws. Amend RSA 263 by inserting after section 6 the following new section:

263:6-a Informing First-Time Applicants of the DWI Laws. Before issuing a license to any person who has not been previously licensed to drive a motor vehicle in this state, the department shall inform the applicant of the following:

I. It is unlawful to drive with an alcohol concentration of 0.08 or greater.

II. The penalty for violations relating to paragraph I is a license revocation of not less than 90 days for a first offense and a license revocation of not less than 3 years for a second offense, and a fine of not less than \$350.

III. A refusal to take, or a failure to complete, a preliminary breath test or, upon arrest, any physical or chemical test for the purpose of determining a level of alcohol in your system shall result in an automatic 6-month license suspension for a first refusal and a 2-year license suspension for a subsequent refusal.

IV. The fee for reissuance of a driver's license after suspension for any of the reasons stated above.

V. Any other information concerning driving responsibility that the director deems necessary.

AMENDED ANALYSIS

This bill requires the department of safety to inform persons under 21 years of age and first-time New Hampshire driver's license applicants of the DWI laws before issuing a driver's license.

SENATOR PATENAUDE: House Bill 462 was introduced in an effort to reduce the number of underage drinking and driving related fatalities on the road each year by requiring the Department of Safety to issue all driver's license applicants under the age of twenty-one with the statement listing the states DWI laws. Similar programs in other states have been credited with reducing the number of teenage deaths. The committee amendment requires that all first time New Hampshire drivers, regardless of age, be issued a statement of New Hampshire's DWI laws because we felt that this would be a benefit for all age groups, not just teenage drivers. The Transportation Committee recommends this bill as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

HB 589-FN, removing a common carrier exemption. Transportation Committee. Vote: 4-1. Inexpedient to legislate, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 589 proposes to remove the common carrier exemption from motor vehicles with the seating capacity of not more than seven persons. Doing so would effectively mandate the need for certain carriers to purchase automobile insurance. Since the state of New Hampshire has a policy of not mandating insurance for all drivers, we felt that this bill would result in an unfair imposition on certain automobile owners. The Transportation Committee therefore recommends HB 589 as inexpedient to legislate. Thank you.

Committee report of inexpedient to legislate is adopted.

HB 598-FN, relative to liens on aircraft for nonpayment of aircraft registration fees. Transportation Committee. Vote: 3-0. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: State law requires registration for all aircraft in New Hampshire; however, there are presently no provisions allowing the Department of Transportation to take action against those who do not adhere to this policy. Testimony indicated that there are approximately twenty-one hundred aircraft primarily located in New Hampshire and nearly seven hundred of these are not registered and with no compliance provisions on the books, the state and its municipalities are collectively losing nearly five hundred thousand dollars a year in revenue. House Bill 598 allows the department to issue a lien against unregistered aircraft in an effort to encourage compliance with state law. There was no opposition to this bill at the public hearing. The Senate Transportation Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 658-FN-A, ensuring that the division of safety services, department of safety receives its 1/2 share of unrefunded tolls for boat motor fuels as required by law and establishing a special fund therefor. Transportation Committee. Vote: 4-0. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 658 ensuring that the division of safety services receives its funding as required by current law. The current practice deposits the portion of the unrefunded tolls for boat motor fuels into the general fund with the intention that the Marine Patrol will be funded from the general fund; however, this practice has become a problem for the Marine Patrol since they are essentially unable to make plans for their summer budget until after the boating season has already begun. A designated fund would ensure that the money collected for the purposes of funding the Marine Patrol actually goes towards these purposes. The Transportation Committee unanimously urges your support for HB 658.

Adopted.

Ordered to third reading.

HB 672-FN-L, relative to lowering the allowable alcohol concentration for persons under 21 operating OHRVs. Transportation Committee. Vote: 5-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 672 is a housekeeping piece of legislation which corrects an oversight in the allowable alcohol concentration laws for persons under the age of twenty-one. The zero tolerance policy was being proposed at the same time the OHRV statutes were being recodified resulting in these provisions inadvertently being omitted from the OHRV laws. House Bill 672 simply corrects this omission by including the .02 level for persons under twenty-one in this chapter. The Transportation Committee unanimously recommends HB 672 for passage.

Adopted.

Ordered to third reading.

HB 696-FN-L, authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief when the court

determines that a motor vehicle was used to abet the commission of criminal mischief. Transportation Committee. Vote: 5-0. Ought to pass, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 696 grants the courts the discretion of suspending, for not more than 90 days, the license of a person convicted of criminal mischief when it has been determined that a motor vehicle was used to facilitate the crime. This bill was introduced primarily as a disincentive for potential youthful offenders who highly value the privilege to drive. A similar bill was introduced last session and sent to Interim Study by the House. The Transportation Committee recommends HB 696 as ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 770-FN, relative to blood testing in the instance of motor vehicle fatalities and other instances. Transportation Committee. Vote: 5-0. Ought to pass, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 770 a request from the Department of Health and Human Services is largely a housekeeping measure. It updates the definition of alcohol for motor vehicle purposes to include other forms of alcohol. Presently this definition only applies to commercial driving licenses. RSA 265: 85 is clarified to permit both a medical laboratory technician and a medical technologist to draw legal blood samples. Existing law implies that only technicians may do this although technologists have two years more training. Statutory references to laboratory certification under the Clinical Laboratory Improvement Act of 1967 are outdated and are changed by this bill. They reflect the act of 1988 as currently amended. House Bill 770 also gives the department the rule making authority to make changes to specific instrument requirements. Currently, new legislation is required every time an instrument requirement is changed. The Transportation Committee unanimously recommends HB 770 as ought to pass.

Adopted.

Ordered to third reading.

HB 533-FN, making technical corrections in the liquor laws. Ways and Means Committee. Vote: 6-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAÏS: House Bill 533, an act making technical corrections in the liquor laws was referred to Finance from the committee on Ways and Means. The increased revenue that will result from the passage of this bill, has already been counted in the liquor commissioner revenue estimates. The Committee on Finance recommends unanimously that this bill ought to pass.

Adopted.

Ordered to third reading.

HB 566-FN-A-L, relative to the applicability of the property tax to electric plants and pipelines. Ways and Means Committee. Vote: 5-1. Ought to pass with amendment, Senator Rubens for the committee.

1997-1400s
09/02

Amendment to HB 566-FN-A-LOCAL

Amend the bill by replacing section 2 with the following:

2 Applicability. Nothing in this act shall affect any agreement entered into under RSA 362-A:6 between a qualifying facility and a city, town, or village district for payment in lieu of taxes which is in existence on May 1, 1997.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect May 1, 1997, and shall apply to all taxes assessed on and after May 1, 1997.

SENATOR RUBENS: House Bill 566 is legislation which addressed how electric generating property will be taxed by local communities after the New Hampshire Electric Utility industry is restructured. Today under the existing monopoly franchise regulatory system, electric industry generating property is taxed as public utility real estate; however, after the industry is restructured, it is quite likely that these generating facilities will not be owned by regulated utilities. This change in ownership could cause an ambiguity in the law and could harm the local government's ability to tax these units at today's higher levels. To address this local taxation concern, HB 566 declares that all electric generating equipment is subject to taxation as real estate. This legislation is intended to ensure that electric utility industry restructuring does not unintentionally harm New Hampshire's cities and towns. It maintains the status quo with respect to revenue flow. This bill also includes measures to hold harmless the existing relationships between a number of small scale qualified facilities and their host towns, existing payment in lieu of tax contracts are protected against HB 566 provisions, for the life of those contracts; however, the specialized statutes that allow these small generators to negotiate payment in lieu of taxes is repealed by HB 566 for future possible small generators. This bill was supported by the New Hampshire Municipal Association. The committee on Ways and Means recommends this bill as ought to pass as amended.

SENATOR WHIPPLE: I also support this bill; however, I do not support the amendment that has been brought forward. The amendment is nothing more than a date change on when this legislation will be implemented. The reason for that is, in addition to taxing all kinds of generation, we are more interested in Claremont in the three hydro sites that we have on the Sugar River. We have been in negotiation with the owners of these three sites for the last two or three years. The assessors and the director of that department informed me as late as last night, that these owners have not been negotiating in good faith. Consequently, when HB 566 was presented to the Senate, our assessors in my community did not know about this. I finally found out about it after it was already in Ways and Means. I went back to my office and told the people in Claremont what was happening and they were very upset. They said that two days before that, the owners of these sites or one of the owners of the sites, had come in and said that he wanted to sign something, he did not care what it is, he wanted to sign something that says that he agreed to what they had been talking about for the last three years. They really didn't sign anything, but the problem is because they have had letters out there, we are concerned that they might consider that a contract. In addition, one of these owners did not have a letter that was even dated the right date, so he wouldn't be eligible, he would have to

pay full taxes. He came down and testified before the Senate committee and convinced them to allow an amendment in so that he would be exempt from this taxation. The problem with that is, that if we pass this amendment on HB 566, the city of Claremont will lose approximately one hundred thousand dollars a year. Now there is no other community in the state that is going to lose any money. This date change only impacts, as far as I can find out, one community, and that is Claremont. What I would like to do, and what I would ask the senate to do, is to vote down this amendment and then when it comes to the second reading, I will present my amendment which will be for March 1 instead of May 1, and that will protect our property taxpayers in the city of Claremont and preserve that one hundred thousand dollar's revenue. So I ask the senate to vote down the amendment. thank you.

Recess.

Out of recess.

Senator Rubens moved to have **HB 566-FN-A-L**, relative to the applicability of the property tax to electric plants and pipelines, laid on the table.

Adopted.

LAID ON THE TABLE

HB 566-FN-A-L, relative to the applicability of the property tax to electric plants and pipelines.

HB 602-FN-A, repealing the franchise tax on electrical utilities and replacing it with a tax on electricity consumption. Ways and Means Committee. Vote: 4-2. Ought to pass with amendment, Senator Hollingworth for the committee.

1997-1396s

08/02

Amendment to HB 602-FN-A

Amend RSA 83-E:4 as inserted by section 4 of the bill by replacing it with the following:

83-E:4 Liability for Tax.

I. Except as provided in paragraph III, every consumer shall be liable for the tax and such liability shall not be extinguished until the tax has been paid to the state, except that payment to a provider required to collect the tax pursuant to RSA 83-E:3 is sufficient to relieve the consumer from further liability for the tax.

II. Any tax required to be collected, and any tax received by a provider, shall become a personal debt of the provider until paid to the state. The provider shall be relieved of further liability for such taxes in the event that the tax is paid directly to the state by the consumer or another person.

III. Consumers, who are customers of the Town of Ashland Electric Department, Littleton Water and Light Department, New Hampton Village Precinct Electric Department, Wolfeboro Municipal Electric Department, Woodsville Water and Light Department, or any other municipalized provider established on or after the effective date of this chapter, shall be exempt from taxation under this chapter, as long as distribution remains within municipal boundaries.

Amend section 6 of this bill by deleting paragraph III.

AMENDED ANALYSIS

This bill repeals the franchise tax on electrical utilities and replaces it with a tax on electricity consumption.

The bill contains a contingency concerning its effective date to take into account the possibility that the restructuring plan issued by the public utility commission may not be implemented by January 1, 1998.

SENATOR HOLLINGWORTH: House Bill 602 repeals the current franchise tax on electric utilities and replaces it with an electric consumption tax. The tax structure needs to be changed in order for the state to keep revenues intact when competition in the electric industry begins. Commissioner Arnold testified before the Finance Committee that this bill mirrors what the state did in the communications tax. It is revenue neutral that it would save the state in the event that deregulation took place, millions of dollars. He stated that the consumption tax is fair and a simple way of dealing with the restructured market. House Bill 602 has a contingency that provides that the new tax structure will not go into effect until competition begins. The bill as amended by the Finance Committee, exempts the five municipal electric companies from the consumption tax unless the choice to sell electricity beyond their municipal boundaries. The Finance Committee recommends this bill as ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 731-FN-A-L, relative to the taxation of sand, gravel, loam, and other similar substances. Ways and Means Committee. Vote: 5-0. Ought to pass, Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, Senator Danaïs, Senator Fraser, Senator Johnson and I sat on this committee all summer long and worked very hard. I think that Senator Johnson ought to report it out. Senator Johnson, I defer to you, please.

SENATOR JOHNSON: Thank you, Senator Blaisdell. Mr. President, this bill is the result of an extensive two-year study of the taxation of sand, gravel and similar substances. The study committee on which Senators Blaisdell, Fraser, Danaïs and I all served, worked hard to reach a solution. We came up with a method that all agree isn't perfect, but which will be a marked improvement over the current system and will be much easier to understand and administer than the alternatives that were proposed and studied. The Department of Revenue Administration will develop rules for administering this chapter. The Department of Revenue Administration determined the fiscal impact of this bill by assuming that each town will receive two intent to excavate applications per year or 468 applications. This number is multiplied by the \$100 enforcement fee to arrive at total revenue of \$46,800 with \$23,400 in FY 1998, based on January 1, 1998 effective date of this bill. The expenditures equal the salaries and benefits of one enforcement officer, labor grade 25 and one office personnel, labor grade 9, plus additional expenses for one vehicle and its maintenance, office equipment and current expenses for printing the required reports and other administrative functions. The fiscal impact on local revenue cannot be determined because the department cannot estimate how much the excavation tax of 2 cents per cubic yard excavated will generate. The committee on Ways and Means recommends this bill as ought to pass with a vote of 5-0, Mr. President.

Recess.

Out of recess.

Question is on ordering to third reading.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, McCarley, Patenaude, Whipple, Roberge, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Danais, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: D. Wheeler, Francoeur.

Yeas: 22 - Nays: 2

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Whipple moved to have **HB 566-FN-A-L**, relative to the applicability of the property tax to electric plants and pipelines, taken off the table.

Adopted.

Question is on the committee amendment.

Amendment adopted.

Senator Whipple offered a floor amendment.

1997-1493s

09/02

Floor Amendment to HB 566-FN-A-LOCAL

Amend the bill by replacing section 2 with the following:

2 Applicability. Nothing in this act shall affect any agreement entered into under RSA 362-A:6 between a qualifying facility and a city, town, or village district for payment in lieu of taxes that is in existence on March 1, 1997.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect March 1, 1997, and shall apply to all taxes assessed on and after March 1, 1997.

SENATOR WHIPPLE: I request that the Senate pass this amendment that moves back the effective date from May 1 to March 1, 1997. Thank you.

SENATOR D. WHEELER: Senator Whipple, do you believe that the effective date of this bill could be challenged as passing a tax change retroactively?

SENATOR WHIPPLE: I believe that anything can be challenged; however, the original bill as written was April 1, 1997 that was retroactive. The committee amendment was May 1, 1997 that was retroactive, and this amendment is March 1, 1997 that is retroactive. So any of them can be challenged.

SENATOR D. WHEELER: Thank you.

SENATOR RUBENS: I would have to argue against the amended bill, the amendment and the bill as brought over by the House for the following reasons; I am citing a case Pennichuck Water Works 1980, "If the public utilities commission allowed retrospective rate increase to take effect, the commission would be altering law and established contractual

agreement between the parties, thereby creating a new obligation respecting past transaction in violation of this article." If this entity in Claremont were to allege that there was a contract, they could argue that according to this case here, that this law was retrospective changing the terms of the contract and subjecting Claremont to a law suit on retrospective law. I will therefore oppose the amendment.

SENATOR FRASER: Could the language be that, "This act shall take effect on some day in the future, and shall apply to all taxes assessed on it after March 1." Would that solve the problem? I don't know... that wouldn't solve it either?

Recess.

Out of recess.

Floor amendment adopted.

Ordered to third reading.

HB 532-FN, relative to the transportation of alcoholic beverages by a minor. Transportation Committee. Vote: 3-2. Inexpedient to legislate, Senator Patenaude for the committee.

SENATOR PATENAUDE: House Bill 532 proposes to expand the state's current law relative to transportation of alcoholic beverages by minors. Under this bill, such drivers would be guilty of a violation that is punishable up to a one thousand dollar fine. The judge may send the driver to an impaired driver intervention program. This is for the offense of transporting alcohol, not open container, not DWI. The Transportation Committee believes that the present penalty of suspending the license of a driver convicted under this statute for 60 days is sufficient, and that new penalties would serve no purpose other than to place additional burdens on the already overwhelmed court system. We therefore recommend HB 532 as inexpedient to legislate. Thank you.

Committee report of inexpedient to legislate is adopted.

#0008

Enrolled Bill Amendment to HB 421

The Committee on Enrolled Bills to which was referred HB 421

AN ACT amending the law against discrimination to prohibit discrimination on account of a person's sexual orientation.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 421

This amendment corrects a grammatical error and inserts language inadvertently omitted from the bill.

Enrolled Bill Amendment to HB 421

Amend RSA 21-I:58, I as inserted by section 5 of the bill by replacing lines 7 and 8 with the following:

religion, age, sex, race, color, ethnic background, marital status, or disabling condition, *or on account of the person's sexual orientation*, or was taken in violation of a statute or of rules adopted by the

Amend RSA 354-A:10, IV as inserted by section 14 of the bill by replacing line 3 with the following:

not available for inspection, sale, or rental when such dwelling is in fact so available. *In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.*

Senator Barnes moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 6, relative to real estate appraisers.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 6, relative to real estate appraisers.

Senator Barnes moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Senate Bill:

SB 189-FN, authorizing the department of safety to issue resident driver's licenses to certain aliens.

and the Speaker, on the part of the House, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	John Flanders
	Ken Malcolm
	Peter Cote
	John Veazey

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Senate Bill:

SB 4, relative to patient information.

and the Speaker, on the part of the House, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Alice Ziegra Calvert
	Margaret Case
	Peter Batula
	Barbara French

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 165, establishing a committee to study withdrawal from cooperative school districts.

HB 230, establishing a committee to study the school building aid system.

HB 258-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies.

HB 327, relative to pledges for loans, finance charge disclosure statements, debt adjusters, and consumer credit transactions.

HB 448, relative to the trust fund for the prevention of child abuse and neglect.

HB 528-L, relative to municipal water, gas and electric utilities.

HB 580-FN, providing that the proper place for filing security interests on manufactured housing is in the office where mortgages on real estate are filed or recorded.

HJR 2, urging the members of Congress to support and pass the Family Forestland Preservation Tax Act.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 12, establishing a Northern New England Interstate Commission on Economic Development.

SB 211-FN, making technical changes under the motor vehicle financial responsibility laws, insurance fraud laws, and laws regulating managing general agents, reinsurance intermediaries, and third party administrators.

SB 212-FN, declaring a member of the retirement system on leave under the Family and Medical Leave Act to be in service for purposes of death or disability benefits.

RESOLUTION

Senator Johnson moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, May 22, 1997 at 10:00 a.m.

Adopted.

RECONSIDERATION

Senator Barnes having voted with the prevailing side, moved reconsideration on **HB 50-FN-A-L**, increasing aid for kindergarten programs, and establishing a program for the construction of public kindergarten facilities and making an appropriation therefor, whereby we ordered it to third reading.

Motion failed.

RECONSIDERATION

Senator Barnes having voted with the prevailing side, moved reconsideration on **HB 564**, increasing the cigarette tax, whereby we ordered it to third reading.

Motion failed.

LATE SESSION

Third Reading and Final Passage

HB 50-FN-A-L, increasing aid for kindergarten programs, and establishing a program for the construction of public kindergarten facilities and making an appropriation therefor.

HB 186-FN, relative to fees for number plates and reducing the amount of the inventory fund in the department of safety.

HB 187-FN, relative to groundwater monitoring for pesticides.

HB 188-FN, relative to the authority of the boxing and wrestling commission.

HB 197-FN, relative to the regulation of wetland scientists.

HB 224-FN-L, delaying the start date for the auto emissions inspection program.

HB 225-FN, providing for the establishment of a needle exchange pilot program in one community in New Hampshire.

HB 236-FN, to allow a person who is being stalked to obtain a protective order.

HB 273-FN, increasing the age that child passenger restraints are required from 12 years of age to 18 years of age.

HB 436-FN-L, establishing restrictions in building aid for conversions of area schools to cooperative school districts, and relative to increasing or decreasing grades in cooperative school districts.

HB 437-FN-L, relative to certain health officers.

HB 440-FN, changing the legislative mileage formula.

HB 457-FN, requiring all state agencies, departments, and commissions in all 3 branches of government to have a presence on the New Hampshire automated information system by January 1, 1998, and designating the state library as the official repository of state government information.

HB 459-FN, establishing a youth operator's license for persons under 18 years of age.

HB 462-FN, requiring the department of safety to inform persons under 21 years of age of the DWI laws.

HB 488-FN, relative to involuntary admission to the state hospital on an emergency basis.

HB 511-FN, requiring health insurers to provide coverage for certain supplies, services and education necessary in the treatment of diabetes.

HB 533-FN, making technical corrections in the liquor laws.

HB 537-FN, relative to the practice of allied health professionals.

HB 564, increasing the cigarette tax.

HB 566-FN-A-L, relative to the applicability of the property tax to electric plants and pipelines.

HB 567-FN-L, relative to administration of vital records.

HB 572-FN, relative to town, city, and county treasurers and to the state treasurer.

HB 582-FN, relative to Medicaid rate setting.

HB 596-FN, repealing certain laws relative to bribery or intimidation of voters.

HB 598-FN, relative to liens on aircraft for nonpayment of aircraft registration fees.

HB 599-FN, relative to youth access to tobacco products.

HB 602-FN-A, repealing the franchise tax on electrical utilities and replacing it with a tax on electricity consumption.

HB 609-FN-L, enacting the Uniform Interstate Family Support Act (UIFSA) and relative to child support.

HB 638-FN, establishing a pilot program for the random on-site inspection and testing of certain sludge and biosolid samples.

HB 646-FN-A, relative to eligibility for child day care services for persons receiving public assistance.

HB 658-FN-A, ensuring that the division of safety services, department of safety receives its 1/2 share of unrefunded tolls for boat motor fuels as required by law and establishing a special fund therefor.

HB 672-FN-L, relative to lowering the allowable alcohol concentration for persons under 21 operating OHRVs.

HB 674-FN-L, relative to dam registration and filing fees.

HB 688-FN-A, establishing a committee to study all investigations of the late John C. Fairbanks and other members of the legal profession.

HB 696-FN-L, authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief when the court determines that a motor vehicle was used to abet the commission of criminal mischief.

HB 700-FN-L, relative to the renovation of regional vocational education centers and expanding an existing appropriation to include such renovations.

HB 722-FN, opting the state out of a provision of federal law relating to benefits for persons convicted of drug-related offenses.

HB 723-FN-A, establishing a New Hampshire health access corporation, continually appropriating a special fund, and allowing the healthy kids corporation to cover adults.

HB 724-FN, allowing the office of reimbursements in the department of health and human services to set rates for the multiple DWI offender intervention detention center program.

HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, the underground utility damage prevention system and the 911 system.

HB 731-FN-A-L, relative to the taxation of sand, gravel, loam, and other similar substances.

HB 735-FN, adding certain conduct to that which constitutes aggravated felonious sexual assault and felonious sexual assault.

HB 765-FN, establishing an osteoporosis prevention, education, and treatment program.

HB 770-FN, relative to blood testing in the instance of motor vehicle fatalities and other instances.

HB 771-FN-L, relative to hazardous waste operator permit application costs, adding an exemption to the hazardous waste cleanup fund fee, increasing grant awards made pursuant to the used oil collection center program, and relative to the automotive oil fee.

HB 773-FN, relative to intentional interference with child custody and visitation.

HB 785-FN, relative to alcohol and other drug abuse professionals.

HB 806-FN-L, relative to the business finance authority.

Senator J. King moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, May 22, 1997 at 10:00 a.m.

Adopted.

Adjournment.

May 22, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

Day after tomorrow I will be presiding at a wedding over across the street. Its going to be a big one and my guess is that it will also be an expensive one. But that's all right, before there does come when spending money is the right thing to do. One part of your job is figuring out when to save so that you will be able to spend when you should. Following right after that wedding, a different group will be gathering over there in the church - for a funeral. That second service is also going to be expensive. Not in terms of money, but rather in terms of emotion and relationship. It's going to cost a lot too. Remember that another part of your job goes way beyond issues of money. Through your voting, through your politicking, and through the example of your living, it is your job to lead the rest of us in investing and spending those assets of our lives besides our money, in ways that are timely and wise. So when you get frazzled, frustrated and short tempered, and begin to wonder why you are spending all of this time in Concord, just remember how much we need you to help us know how to spend both our money and our lives.

Lord, amaze us over and over again with a constant awareness of Your reckless extravagance and generosity in how You spend Yourself on us. Let us know our lives, our relationships and our careers to be what they actually are, bank accounts in which You have invested all that You have. Make us smart enough, kind enough, firm enough, and brave enough that we may manage those accounts in a way that will please You every time You audit them.

Amen

Senator J. King led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

SUSPENSION OF THE RULES

Senator Barnes moved that the bill that passed the House of Representatives under suspension of rules be by this Resolution introduced in the Senate:

HB 811, legalizing, ratifying, and confirming actions, votes, and proceedings of the annual meetings of the North Walpole village district and the town of Bartlett.

Adopted by the necessary 2/3 vote.

Senator Barnes moved to have **HB 811**, legalizing, ratifying, and confirming actions, votes, and proceedings of the annual meetings of the North Walpole village district and the town of Bartlett, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 811, legalizing, ratifying, and confirming actions, votes, and proceedings of the annual meetings of the North Walpole village district and the town of Bartlett.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 41, relative to the time for filing requests for a hearing with the department of labor concerning violations of the whistleblower protection act.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 41, relative to the time for filing requests for a hearing with the department of labor concerning violations of the whistleblower protection act.

Senator J. King moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 98-FN, relative to the submission of youth employment certificates to employers.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 98-FN, relative to the submission of youth employment certificates to employers.

Senator D. Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 124, relative to the imposition of fines by the state board of licensure for land surveyors.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 124, relative to the imposition of fines by the state board of licensure for land surveyors.

Senator J. King moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 153, requiring a check-off box on a driver's license application form relative to having the social security number indicated on the driver's license.

**SENATE NON CONCURS AND REQUEST A
COMMITTEE OF CONFERENCE**

SB 153, requiring a check-off box on a driver's license application form relative to having the social security number indicated on the driver's license.

Senator Pignatelli moved to non concur and request a committee of conference.

Adopted.

The president, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Pignatelli, Gordon, Russman

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 159-FN, establishing a committee to study increased public access to data concerning physicians and persons certified or registered under RSA 330-A.

**SENATE NON CONCURS AND REQUEST A
COMMITTEE OF CONFERENCE**

SB 159-FN, establishing a committee to study increased public access to data concerning physicians and persons certified or registered under RSA 330-A.

Senator D. Wheeler moved to non concur and request a committee of conference.

Adopted.

The president, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Squires, K. Wheeler, Podles

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 163, relative to the Uniform Anatomical Gift Act.

**SENATE NON CONCURS AND REQUEST A
COMMITTEE OF CONFERENCE**

SB 163, relative to the Uniform Anatomical Gift Act.

Senator Podles moved to non concur and request a committee of conference.

Adopted.

The president, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Gordon, Squires, Pignatelli

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from Senate:

HB 450, relative to accessing directory information as defined by the Family Educational Rights and Privacy Act.

and requests a committee of conference.

The Speaker, on the part of the House, has appointed as members of said committee of conference:

REPRESENTATIVES: William Belvin
Clair Snyder
Stanley Searles
Bruce Dearborn

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 450, relative to accessing directory information as defined by the Family Educational Rights and Privacy Act.

Senator Rubens moved to accede to the House request for a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Rubens, McCarley, Johnson

COMMITTEE REPORTS

HB 154-L, defining "legal resident" for purposes of school attendance. Education Committee. Vote: 5-0. Ought to pass with amendment, Senator Rubens for the committee.

1997-1475s

10/01

Amendment to HB 154-LOCAL

Amend the bill by replacing section 1 with the following:

1 Definition of Resident District Removed; Gender Neutral. Amend RSA 193:1, I-III to read as follows:

I. A parent of any child at least 6 years of age and under 16 years of age shall cause such child to attend the public school to which the child is assigned in ~~[his]~~ **the child's** resident district. Such child shall attend full time when such school is in session unless:

(a) The child is attending a public school outside the district to which ~~[he]~~ **the child** is assigned or an approved private school for the same time;

(b) The child is receiving home education; or

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of ~~[his]~~ **the** parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and RSA 198:27-37.

II. A child who reaches [his] *the* sixth birthday after September 30 shall not be required to attend school under the provisions of this section until the following school year.

III. In this section[:

(a)] "Parent" means a parent, guardian, or person having legal custody of a child.

[~~(b) "Resident district" means the school district in which the child resides.~~]

Amend the bill by replacing section 6 with the following:

6 School Attendance; "Legal Residence" and "Legal Resident" Defined. RSA 193:12 is repealed and reenacted to read as follows:

193:12 Legal Residence Required.

I. Notwithstanding any other provision of law, no person shall attend school, or send a pupil to the school, in any district of which the pupil is not a legal resident, without the consent of the district or of the school board except as otherwise provided in this section.

II. For purposes of this section, the legal residence of a pupil shall be as follows:

(a) In the case of a minor, legal residence is where his or her parents reside, except that:

(1) If the parents live apart and are not divorced, legal residence is the residence of the parent with whom the child resides.

(2) In a divorce decree where parents are awarded joint legal custody the legal residence of a minor child is the residence of the parent with whom the child resides. If a parent is awarded sole or primary physical custody by a court of competent jurisdiction in this or any other state, legal residence of a minor child is the residence of the parent who has sole or primary physical custody. If the parent with sole or primary physical custody lives outside the state of New Hampshire, the pupil does not have residence in New Hampshire.

(3) If the minor is in the custody of a legal guardian appointed by a New Hampshire court of competent jurisdiction or a court of competent jurisdiction in another state, territory, or country, legal residence is where the guardian resides. If the department of health and human services has been appointed legal guardian, the residence of the minor is where the child is placed by the department or the court. Legal guardianship shall not be appointed solely for the purpose of allowing a pupil to attend school in a district other than the district of residence of the minor's parent or parents.

(b) No minor placed in a home for children or health care facility, as defined in RSA 193:27, by another state which charges the state of New Hampshire, a political subdivision of the state of New Hampshire, or a New Hampshire school district, for the regular or special education costs for New Hampshire children placed in that state, shall be deemed a legal resident for purposes of school assignment, unless the sending state agrees to reimburse the receiving district, as defined in RSA 193:27, for regular education and special education costs.

III. For the purposes of this title, "legal resident" of a school district means a natural person who is domiciled in the school district and who, if temporarily absent, demonstrates an intent to maintain a principal dwelling place in the school district indefinitely and to return there, coupled with an act or acts consistent with that intent. A married person may have a domicile independent of the domicile of his or her spouse. If a person removes to another town with the intention of remaining there indefinitely, that person shall be considered to have lost residence

in the town in which the person originally resided even though the person intends to return at some future time. A person may have only one legal residence at a given time.

IV. For the purposes of this section, the legal residence of a child of homeless parents is where the child temporarily resides unless the parents and another school district agree that the child's attendance in school in that school district will be in the best interests of the child in that continuity of education will be provided and transportation will not be unduly burdensome to the school district. "A child of homeless parents" means a child whose parents:

(a) Lack a fixed, regular and adequate residence; or

(b) Have a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations such as public assistance hotels, emergency shelters, battered women's shelters, and transitional housing facilities, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.

V. Except as provided in subparagraph II(b), nothing in this section shall limit or abridge the right of any child placed and cared for in any home for children, as defined in RSA 193:27, to attend the public schools of the school district in which the home for children is located, as provided in RSA 193:28.

VI. The superintendent shall decide residency issues under this section. If more than one school district is involved in a residency dispute or the parents who live apart cannot agree on the residence of a minor child, the respective superintendents shall jointly make such decision. In those instances when an agreement can not be reached in a timely manner, the commissioner of education shall make a determination and such determination shall be final. Notwithstanding the provisions of RSA 21-N:11, III any person aggrieved by a determination of the commissioner may appeal such determination to a court of competent jurisdiction.

VII. Nothing in this section shall require a district to provide transportation for a student beyond the geographical limits of that district.

VIII. Each school district shall adopt an admission and attendance of non-resident students policy.

IX. The commissioner of education may enter into agreements with other states relative to liability for educational costs, including special education costs, of students placed in New Hampshire by those states, or of students placed outside the state of New Hampshire.

AMENDED ANALYSIS

Section 6 of this bill defines the term "legal resident" and outlines what constitutes legal residence as it applies to pupils for purposes of school attendance. Section 1 of this bill removes a definition of "resident district".

The remainder of this bill amends certain RSA provisions making them gender neutral in accordance with RSA 17-A:6 relative to gender neutral drafting.

This bill is a request of the interim study committee established for 1996, HB 1179.

SENATOR RUBENS: This bill defines legal resident for the purposes of school attendance. The bill defines residency when a parent is a sole guardian or when a parent lives out of state, when parents are divorced or when the court awards joint or primary custody. Student's residence is the place where a parent resides. This bill is necessary to stem the practice of kids living with relatives solely to take advantage of an edu-

cational opportunity at the expense of another school district. This committee recommends this bill as ought to pass as amended. It is the consensus of all the parties involved.

Amendment adopted.

Ordered to third reading.

HB 318, making technical changes to the provisions relating to school administrative units. Education Committee. Vote: 6-1. Ought to pass with amendment, Senator Rubens for the committee.

1997-1384s

04/01

Amendment to HB 318

Amend RSA 194-C:2, IV as inserted by section 3 of the bill by replacing it with the following:

IV.(a) *If the planning committee recommends the organization, reorganization, or withdrawal from a school administrative unit, it shall prepare a plan for providing superintendent services for the proposed school administrative unit signed by at least a majority of the membership of the planning committee, which meets the requirements set forth in RSA 194-C:4.*

(b) *If the planning committee chooses not to recommend organization, reorganization, or withdrawal from a school administrative unit, that recommendation shall be submitted to the voters of the school district at the next annual school district meeting. The recommendation of the planning committee shall be submitted for approval to the voters. If a majority of voters present and voting vote in the affirmative, the report shall be accepted. If a majority of voters present and voting reject the recommendation, the vote shall represent a vote to create a new planning committee in accordance with RSA 194-C:2, II and the planning committee shall prepare a plan for organization, reorganization, or withdrawal from a school administrative unit which meets the requirements of RSA 194-C:2.*

SENATOR RUBENS: This bill makes technical changes to the provisions relating to organizing and reorganizing or withdrawing from school administrative units. The bill is a request from the New Hampshire Department of Education. Planning committees decide whether or not to withdraw from or reorganize an SAU and the bill deals with the process that they must go through. The bill provides that the public gets to vote on the recommendation of the planning committee regarding withdrawal and reorganization. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 584-L, relative to the duties of school nurses. Education Committee. Vote: 6-0. Ought to pass with amendment, Senator McCarley for the committee.

1997-1391s

04/08

Amendment to HB 584-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 School Health Personnel. RSA 200:31 is repealed and reenacted to read as follows:

200:31 School Health Personnel. Any school board may employ or contract for their district a licensed practical nurse (LPN) or certified nursing assistant (CNA) who shall hold an unencumbered current license in New Hampshire, to work under the direct supervision of the school registered nurse in accordance with rules adopted under RSA 541-A, by the board of nursing.

2 Possession and Administration of Epinephrine. Amend RSA 318:42, VII-a to read as follows:

VII-a. The possession and administration, with written parental authorization, of flu vaccine, immunizations, and mantoux tests for the purpose of disease prevention and tuberculosis screening, and epinephrine for the emergency treatment of anaphylaxis by registered nurses employed or contracted by public school systems. *The possession and administration, with written parental authorization, of epinephrine for the emergency treatment of anaphylaxis by licensed practical nurses employed or contracted by public school systems.*

3 New Paragraph; Rulemaking Authority; Board of Nursing. Amend RSA 326-B:4-a by inserting after paragraph XV the following new paragraph:

XVI. Establish standards for currently licensed registered and practical nurses' and certified nursing assistants' education and scope of practice in primary and secondary school settings, and licensed practical nurses' and certified nursing assistants' employment restrictions in elementary and secondary school settings.

4 Rulemaking. The board of nursing shall file an initial proposal relative to rulemaking for the purposes of this act with the joint legislative committee on administrative rules by March 1, 1998.

5 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill allows licensed practical nurses and certified nursing assistants to work in schools under the direct supervision of school registered nurses licensed in New Hampshire. It also allows licensed practical nurses to possess and dispense, with written parental authorization, epinephrine for treatment of anaphylaxis.

This bill is a request of the department of education.

SENATOR MCCARLEY: House Bill 584 allows school boards to employ or contract with licensed practical nurses or certified nursing assistants to work under the direct supervision of registered nurses in the school district. The Board of Nursing will promulgate rules as to the scope of practice of these school health personnel. It is not the intent of the Education Committee that the Board of Nursing promulgate rules that would require a certified nursing assistant, licensed practical nurse or registered nurse in each school building. The bill will also extend the authority to administer epinephrine as well as flu vaccine immunizations with parental consent to licensed practical nurses in schools. The committee recommends this bill as ought to pass as amended.

SENATOR K. WHEELER: Senator McCarley, I am sure that we have all had a lot of phone calls from school nurses about this particular piece of legislation saying that they were very concerned that we might be setting up a situation where a registered nurse would not be in direct supervision and in the same building with an LPN. I wondered how the school nurses felt about this amendment, and does it safeguard the health of our school children?

SENATOR MCCARLEY: We spent quite a bit of time in the committee with everybody at the table discussing that very issue. The Board of

Nursing had some concerns that they raised that we worked through. In the end, the feeling was to allow the promulgation of rules through the Board of Nursing. They will be able to be very comfortable with the type of supervision, and will set up the protocols for supervision, that would allow, perhaps, in some circumstances, an LPN in a building, but very close to or in direct contact or what have you, with an RN. So in the end, there was true consensus reached on that issue.

SENATOR K. WHEELER: Thank you.

Amendment adopted.

Ordered to third reading.

HB 695, establishing a committee to study the educational requirements of student drivers. Education Committee. Vote: 4-2. Ought to pass, Senator J. King for the committee.

SENATOR J. KING: House Bill 695, this bill establishes a study committee to determine whether or not the educational requirements of student drivers is adequate. Looking into the educational standard used to train our young drivers will lead to improvements that will hopefully reduce the number of accidents involving young and novice drivers. The committee will study not only the teaching that the student receives, but also how qualified the instructor should be. The committee recommends the bill as ought to pass.

Adopted.

Ordered to third reading.

NOTICE OF RECONSIDERATION

Senator Hollingworth served notice of reconsideration on **HB 609**, enacting the Uniform Interstate Family Support Act (UIFSA) and relative to child support.

HB 191, reducing the number of categories of pesticides from 3 to one. Environment Committee. Vote: 4-0. Rerefer to committee, Senator Russman for the committee.

SENATOR RUSSMAN: House Bill 191 deals with pesticide registration. We would like the bill rereferred to committee so that we can try to work on it over the summer and come up with an agreement next January.

Committee report of rerefer is adopted.

HB 389, relative to the water protection assistance program within the office of state planning. Environment Committee. Vote: 4-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 389 a request of the office of State Planning removes the office's rulemaking authority over the Water Protection Assistance Program. This program is the only component of a municipality's master plan which requires the development of administrative rules. Statute requires that these rules be detailed and comprehensive, which appears to be contrary to the office's traditional functions which are simply to encourage and assist in the planning and growth management of the state's municipalities; furthermore, these rather cumbersome rules have frequently discouraged municipalities from developing appropriate water protection programs. Testimony at the hearing suggested that towns would benefit more if the office were to revert to

its traditional role and just prepare guidance materials on how to develop water protection programs. The Environment Committee recommends HB 389 as ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 424, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. Environment Committee. Vote: 4-0. Ought to pass, Senator Russman for the committee.

SENATOR RUSSMAN: We would ask that the Clean Air Act requirements for implementation alternatives for motor vehicle fuels by all private and public entities using light or heavy weight vehicles is what the bill dealt with. At this time, it is not an adequate infrastructure in place to require the use of these fuels; therefore, we are urging to delay the implementation to the year 2002. We would urge passage of the bill.

Adopted.

Ordered to third reading.

HB 536, requiring certain dam owners to develop emergency action plans, prohibiting the construction of any dam without a permit and clarifying the process for issuing orders for dam repair. Environment Committee. Vote: 4-0. Ought to pass with amendment, Senator Cohen for the committee.

1997-1417s

03/02

Amendment to HB 536

Amend the bill by deleting section 6 and renumbering the original section 7 to read as 6.

SENATOR COHEN: House Bill 536 emerged from a Rules Advisory Committee which met last year to review all dam regulations and is designed to clarify the statutes relative to emergency action plans for dams, as well as dam permitting. Specifically the bill disallows dam construction until after a permit has been issued. Current law suggests the construction may begin within 10 days when filing a statement of intent. The requirement for a hearing prior to the issuance of an administrative order for repairs is being removed since the hearing process can delay action being taken for two or three weeks which is contrary to the need for issuing administrative orders. HB 536 also consolidates two statutory requirements relative to maintenance and repair of dams. Part of this consolidation relocates the existing requirement for dam owners to develop emergency action plans. The committee amendment removes section six relative to the unfunded mandate provision. Testimony suggested that this language was unnecessary since the statutes concerning emergency action plans predate passage of article 28-A. The Environment Committee recommends HB 536 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 544, relative to dwellings which extend over public waters. Environment Committee. Vote: 4-2. Inexpedient to legislate, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: The Environment Committee voted 4-0 that HB 544 be inexpedient to legislate. The bill would alter present statu-

tory law which prohibits the reconstruction of dwellings over water. First the definition: A dwelling over water is just what the word suggests. A residential unit built over the water of our great ponds, those greater than 10 acres in size. We are not talking about boat houses, we are talking about residential dwellings here. Since the houses never should have been built over state owned land, state owned water in the first place, in 1969 the legislature concluded that no reconstruction shall be allowed. In other words, no expansion, no substantial changes. All that can be done is to repair and maintain just what you have. You can put a new paint job on, you can make roof repairs, replace broken windows, those kinds of repairs. The present bill would allow reconstruction so long as it stays within the original footprint and doesn't expand up or out. It would be a marked departure from present law. Blacks Law Dictionary defines 'reconstruction' as "to construct again, to rebuild, to remodel." The 1969 legislation intended that these structures disappear over time through attrition. And the public area that they occupy return to the true owner, the state, the public, us. By meeting owners halfway, though, repairs were allowed so that people could maintain the structure to prevent eyesores. But if a dwelling burned down, it could not be rebuilt. To change that law to permit reconstruction would for example, allow a change from a camp to a four season home, putting a bathroom where none exists now; putting in a kitchen, rebuilding a burned down structure, changing an upstairs open area to two or three bedrooms and adding bathrooms; altering exterior design or the crib work under the water. All of these have been prohibited since 1969. No matter what we do today, please understand that people will still be permitted to repair and maintain what they have. That will not change, but they can not increase their stake hold over public property. This bill would allow it. The construction of these dwellings was never lawful in the first place. People actually built over water which they did not own. The public owned, and the public still owns the water and the air rights above it. This is part of what is known as the "Public Trust Doctrine." Just as our predecessors in the legislature moved to preserve state owned property for the benefit of the public in 1969 the Environment Committee continues to agree with that principle that it should not be eroded. We urge you to vote this bill inexpedient to legislate to keep the law the way it has been since 1969. Thank you.

SUBSTITUTE MOTION

Senator F. King moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR F. KING: First of all I would like to correct the committee vote. The committee vote would have been 4-2 if two of the votes had been recorded as reported to the clerk. Perhaps it was an error in the way that the time was scheduled or something. It probably would have been 3-3 because there was some confusion among another member of the committee relative to what was happening. This bill is a good bill. Paragraph one makes it very clear that there will be no new construction dwellings over public waters. Paragraph two makes it very clear that existing boat houses or structures cannot be converted to dwellings. Paragraph three speaks about existing dwellings. These are facilities that have already been converted in the past to dwellings. Some of them have been owned by generations. As far as we could determine, there probably aren't many of these structures that exist, but there is an investment and a sense of ownership that people have had over periods

of time. Under the existing statute, you can reconstruct a facility like this. It was decided at the hearing, if you do it over time. You can go in and rebuild a pier on the north side this year and then you can go in and rebuild a pier on the south side next year. It would be the opinion of those who support the bill, that it would be more appropriate to go in and to rebuild both piers this year and get the job done and get out of the water and stop causing a problem. There are hundreds and probably thousands of structures that are in the public waters. There are docks that are there by permit. The state continues to allow people to have docks by permit. These facilities, most of them predate, the law that was quoted, because since that time, there haven't been new structures allowed. Any work that would be done on one of these existing structures would have to be done within the existing confines of the structure. There would be no second or third stories put onto these buildings. There is even a question on whether someone could take out a picture window and put in a bay window in, because you cannot change the outside. You can work just within the framework. Dwellings, I have to assume that exist, probably already have kitchens and bathrooms. So you should be able to reconstruct kitchens and bathrooms. Most of these structures are relatively small, because most of them started their lives as boat houses. I think that there is a sense of ownership of these facilities, the few that exist. They never will disappear over time because people will continue to repair them. They have an investment in them, it is an investment that is being conveyed, it has been conveyed. People have purchased these over time as they buy the adjacent land and the structure that sits mostly on the land and very little of it sticks into the water. These are not islands onto themselves. People continue to repair them, the question is whether they should be able to do it all at once and get it over with. I think, clearly, that this is a law that should pass. There seems to be no desire on the part of the opponents of this bill to force these people to get rid of these buildings that are allegedly illegal. I just think that we ought to allow these few dwellings to be rebuilt properly. If they do any major work, they will be forced to get a permit for a new septic system, and probably some of them have inadequate septic systems now. I think that it will be better for the environment if we allow this bill to pass. I realize that there are probably other people who live on these lakes and have to look at these dwellings who may be offended by having to look at them, but I don't know any other reason why they would be opposed to this bill. I just think that HB 544 should pass and I would appreciate your support.

SENATOR PATENAUE: I rise in support of the motion of ought to pass on HB 544. I would like to let you know that over in the House, the R & D committee, it came out 15-1 and had strong bipartisan support. It was overwhelmingly passed in the House. I asked every single person who testified in opposition to this bill if they would like to see these houses removed? Every single person said no. I had several state representatives concede that, yes, these houses were being reconstructed, but, just as Senator King said, they replace half the crib work one summer and then half the crib work the next summer, so they are in the lake, messing up the lake for several summers in a row. I think that this bill is environmentally sound. We need this bill to protect the integrity of our waters. Let people reconstruct properly; furthermore, right now when someone rebuilds, they are not required to make sure that they have a state approved septic system, I think that is a very strong part of this bill that when someone does reconstruct, that they have to have a state

approved septic system. I would also like to point out that who determines what rebuild and reconstruct is? Your neighbor? The state? I think that we should have it clearly stated that people should be able to get permits and be able to keep their homes, their dwelling, that they pay plenty high taxes for in this state, for the privilege of owning waterfront property. This is a good bill. It came out of the House 15-1 out of the Resources Committee. Please support it. Thank you.

SENATOR K. WHEELER: Senator Pignatelli, I have two questions, I want to make sure that I understand this clearly. Is the land over which these structures are built, primarily, state owned land, public land?

SENATOR PIGNATELLI: It is state owned land. The land in bodies of water larger than 10 acres is held in trust for the public and owned by the state. It belongs to all of us for our enjoyment.

SENATOR K. WHEELER: My second question is, if I were to buy lakefront property tomorrow, would I be able to erect property, a structure over the water?

SENATOR PIGNATELLI: No you would not be allowed to do that. We don't allow that anymore since 1969 when we realized that they were a problem.

SENATOR K. WHEELER: Thank you.

SENATOR F. KING: Senator Pignatelli, if I were to buy a waterfront property today, and I wanted to put a dock in to tie my boat to, would that be in public waters?

SENATOR PIGNATELLI: We allow people who own waterfront property to do what is called "wharfing out." That means a dock. That does not mean a boat house unless it is on your property and carved out or a dwelling over water. We don't allow dwellings over water any more.

SENATOR F. KING: So the answer to my question is yes? I can have a dock and that would be in public waters?

SENATOR PIGNATELLI: You are allowed to wharf out, which means a limited dock, that is what wharfing out means.

SENATOR F. KING: If I wanted to reconstruct my dock or perhaps extend it, because I now have a larger boat, would I be able to get permission from the state to do that?

SENATOR PIGNATELLI: Possibly, depending on what you wanted to do. You would not be able to put up a dwelling that you could live in.

SENATOR F. KING: And would that dock be illegal?

SENATOR PIGNATELLI: With a permit, no.

SENATOR F. KING: Thank you very much.

SENATOR COHEN: I urge the concurrence with the committee report of inexpedient to legislate. Senator Patenaude referred to, if I may quote her, "Protect the integrity of our waters." This is something that we need to do if we are going to protect the integrity of our waters, this is a public trust. This is a very important doctrine of the state of New Hampshire, the public trust Public Trust Doctrine. Senator King talked about wharfing out. This bill doesn't deal with that, it deals with dwellings. There is a very real difference between putting a pier out for your boat, which you have to go through the permit process, which is appropriate, and building a dwelling. This recognizes two classes of lakefront prop-

erty owners. Senator King referred to the other lakefront property owners who have to look at this. If they didn't build their dwelling over the water before 1969, they can't do it now. They are two classes of people. Unless you want to change the law and allow and throw out the Public Trust Doctrine and allow the building and erecting of new dwellings all across the lake and over the public waters TAPE INAUDIBLE people here. It is one thing to build a pier and it is another thing to improve a dwelling, to make something there which hadn't been there before in terms of improving the dwelling, putting in new bathrooms and new bedrooms in the area and enlarging the dwelling even if it is within the same footprint. These people couldn't have done this after 1969. Do we want to keep rewarding them for that and saying to the other lakefront property owners who have been abiding by the law, that they don't have the same right and that the public trust Public Trust Doctrine no longer exists? I think that it is important that we go along with the committee recommendation which is inexpedient to legislate.

SENATOR RUSSMAN: I will be brief. I have a couple of things. The problem with this whole idea is that it is a matter of equity in terms of what is there now and what should be there and so on. The wharfing out, is not comparable because it is done by permit. The state is still reserving its right to the property over which the wharves go. We are protecting that virtually, it belongs to all of our constituents equally. It is very important that we have access to all of these lakes and things of that nature and that we have gone through the trouble of making boat ramps so that our constituents can enjoy the public waters of the state. A statement was made earlier, and probably inadvertently, that these all are part on land and I have a photograph here of a home on Little Sunapee Lake that actually sits right out in the water and there is a concrete pier that has been built out to the home. What probably should have been done at some point, was to say that you know, you have 50 years or some purpose or some time length, and meanwhile in order to have the 50 years, you have to keep it in some repair so that it doesn't become an eyesore and be falling down. But they probably at some point should have been removed or there should have been some idea to remove them in time. No doubt these are probably all started off as boat houses virtually, and little by little as people do with summer camps, increased them to the size where they are now, some of them, clearly just homes in terms of being out on the water. The concern with that is, that this is clearly an expansion of that opportunity, so what we are doing is, we are giving these people additional rights, if you will, to ownership or a feeling of ownership, over an area that really belongs to all of us and all of our constituents. I don't think that we should be giving that right away. The state is actually supposed to be the guardians of those lands that our constituents own and the lakes and so on that the people use. That, I think, is why the vote of inexpedient to legislate came about. I understand that there was apparently some people that weren't there when we execed on it, that registered their opposition so that the calendar should have reflected not a 4-0 vote. It has been a controversial issue. It is a matter of fairness and equity for both parties, not for just the people who own these homes, because obviously they do have some money tied up in these things, and they do have an emotional attachment to them. At the same time, our constituency has some ownership to the land that they sit on and they don't actually own that, so that there is a big difference between docks and homes. It is unfortunate that there wasn't at the time in 1969, actually some provisions said that those

people couldn't have a certain number of years or whatever is reasonable, maybe two generations or something like that to enjoy your home, but at some time it is going to revert to the people that own the land under it.

SENATOR F. KING: Senator Russman, could, the state now, given the powers that it has, order these places removed?

SENATOR RUSSMAN: I am not sure if they could frankly, Senator King. I am not an expert in riparian rights and in the notion of what property rights were attached given the fact that they are built where they are. I mean clearly, it does create two classes of ownership in terms of waterfront dwellings and I know that you indicated earlier that there were people who don't like living next door to them because it blocks their view or something and that could be another factor that weighs in here, I don't know that. I don't know what the Supreme Court would do in that respect if it was said that they had to take them out. I don't know if that would end up being eminent domain proceeding. I don't think that it would because they never potentially had the ownership of that land to begin with and it always has belonged to the people of the state, it has never really belonged to those people. I don't know if the time over time they would have developed that right or not. I don't know.

SENATOR F. KING: I am confused. If the state owns the land, and you very clearly said that they do, then why doesn't the state have the right to evict these people now?

SENATOR RUSSMAN: They may. I don't know that. I have not talked that concept over with the attorney general's office. Frankly, I don't think it would be right to do that. I think that it is one thing perhaps if the place burned down, that might be another matter where they might confiscate it through insurance or what have you, but these people do have some emotional ties and some money tied up in these. So for the state to simply tell them to get out of here we are going to tear down your building, that is not fair.

SENATOR F. KING: I am not an attorney, but would this constitute something like implied consent, by knowing that the state owns the land and they have allowed these people to go out there? Has not the state recognized their right to own that by implied consent?

SENATOR RUSSMAN: It is potentially possible, but by the same time, what grandfathering rights would apply to these would be a technical legal question and it would probably eventually have to be settled by the courts in some fashion and I just don't know the answer to that question.

SENATOR F. KING: Do you think it is fair for us to pass a law that takes away someone's right? What you are saying now is that you are admitting that there is an implied property right here and that we are going to take that away by this bill?

SENATOR RUSSMAN: I am saying that there is an argument to be made. I still think the state owns it, but I think that certainly you could raise an argument and you could go to court on it and you probably would have to have the courts decide the issue, because there are a lot of legal issues tied up with that.

SENATOR BARNES: Senator Russman, you have told us that the property that these places are on belongs to the state. If I owned one of those places, say on Pawtuckaway Lake, who would I pay taxes to? Who taxes me, the town or the state?

SENATOR RUSSMAN: I think that the town taxes you on your dwelling. I don't know how the towns work it in terms of taxing.

SENATOR BARNES: But the state owns the property?

SENATOR RUSSMAN: The state owns from the high water mark out. That is state ownership. In theory, we are the guardians of that property that the state owns. It belongs to all of our constituents. How the town deals with it, I honestly don't know because I haven't done the research on it.

SENATOR BARNES: Not tax free?

SENATOR RUSSMAN: No, believe me. Not in New Hampshire.

SENATOR PATENAUDE: Senator Russman, wasn't there a fairly recent court case where someone on Lake Sunapee was repairing their dwelling over water and it was so rotten that they decided that while he was repairing it that he may as well replace all of the cribbing. Then he moved the house off and then a neighbor called up the state and complained that this guy was reconstructing and the state said, "yes, it sure looks that way" and then they went to court. Would you believe that the person was allowed to reconstruct his boat house? The courts ruled that in this state that he was allowed to reconstruct it?

SENATOR RUSSMAN: If that was the case, we wouldn't need the law, but the fact of the matter was, that there were issues there as to when the permit was actually given. He had been given a permit and the permit was wrong. The issue was that if the permit had not been given, he would not have been allowed to do it. So it wasn't as simple as the court allowed him to do it. There was a reason why because of the mess up in the permitting process that he was allowed to do that.

SENATOR JOHNSON: Senator Russman, at the hearing, isn't it true that the Department of Environmental Services and the Attorney General's office was in favor of this bill?

SENATOR RUSSMAN: To be honest, I don't know.

SENATOR JOHNSON: I have it right here in front of me. They were.

SENATOR RUSSMAN: If they were, then they were. I don't know that.

SENATOR RUBENS: Senator Russman, are the citizens of the state in any way reimbursed for this allowance of use of the public lands by this private property owner? In any way are the state citizens reimbursed?

SENATOR RUSSMAN: Not that I know of. I mean they are allowed to live in their house out there.

SENATOR RUBENS: Are there any benefits to the private property owner for the use of this public land that could be measured to an extent greater than zero?

SENATOR RUSSMAN: I would certainly think that they have some value in terms of actual value. Lakefront property is pretty valuable. If you actually have it out in the middle of the lake, it is probably worth even more, I guess, and it floats.

Senator Barnes moved the question.

Adopted.

Recess.

Out of recess.

Question is on the motion of ordering to third reading.

A roll call was requested by Senator F. King.

Seconded by Senator Pignatelli.

The following Senators voted Yes: F. King, Johnson, Fraser, Patenaude, Roberge, Blaisdell, D. Wheeler, Francoeur, Podles, Barnes, Danais, Delahunty.

The following Senators voted No: Gordon, Rubens, McCarley, Whipple, Squires, Pignatelli, Larsen, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

Yeas: 12 - Nays: 12

Motion of ordering to third reading failed.

Senator Russman moved inexpedient to legislate.

Question is on the motion of inexpedient to legislate.

A roll call was requested by Senator F. King.

Seconded by Senator Barnes.

The following Senators voted Yes: Gordon, Rubens, McCarley, Whipple, Squires, Pignatelli, Larsen, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Patenaude, Roberge, Blaisdell, D. Wheeler, Francoeur, Podles, Barnes, Danais, Delahunty.

Yeas: 12 - Nays: 12

The motion of inexpedient to legislate failed.

Senator Russman moved rerefer to committee.

Adopted.

HB 544 is referred to the Environment Committee.

HB 575, authorizing the commissioner of the department of environmental services to accept environmental standards developed by the International Standards Organization (ISO) in place of certain permits and certification requirements. Environment Committee. Vote: 4-0. Ought to pass with amendment, Senator Pignatelli for the committee.

1997-1045s

03/01

Amendment to HB 575

Amend the title of the bill by replacing it with the following:

AN ACT authorizing the commissioner of the department of environmental services to accept environmental standards developed by the International Organization for Standardization (ISO) in place of certain permits and certification requirements.

Amend the bill by replacing section 1 with the following:

1 Findings. The general court finds that the promulgation of the environmental management standards by the International Organization for Standardization (ISO 14000) is important for success in international trade, and that authority for a New Hampshire entity, either public or private, to certify managerial practices of private companies relative to ISO 14000 standards will be important to New Hampshire's competitive position internationally.

Amend RSA 21-O:3, X(a)(1) as inserted by section 2 of the bill by replacing it with the following:

(1) Accept the international environmental management standards developed by the International Organization for Standardization 14000 series (ISO 14000).

AMENDED ANALYSIS

This bill authorizes the commissioner of the department of environmental services to accept certain international environmental management standards developed by the International Organization for Standardization (ISO 14000), to disseminate information concerning ISO 14000 certification, and to investigate seeking certification of the department as an ISO 14000 registrar. The bill requires the commissioner to file reports with the house environment and agriculture committee.

SENATOR PIGNATELLI: House Bill 575 represents at least two years of work in the House on the proposed ISO 14000 environmental certification standards which are a voluntary process driven rather than outcome driven set of standards for the business community. This bill grants the Department of Environmental Services the discretionary ability to accept ISO 14000 environmental standards as a means of assisting private businesses to comply with state requirements. It also establishes DES as a point of contact for those businesses potentially interested in being ISO 14000 certified. The Business and Industry Association indicated that several of their members are presently considering becoming ISO 14000 certified because this will help them in global competition. DES is seeking a federal grant which would enable them to assist the state's smaller businesses in applying for ISO 14000 certification. The Environment Committee hopes that you will look favorably upon HB 575 as amended.

Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Podles moved to have **HB 300**, establishing a commission to study judicial salaries and retirement benefits, taken off the table.

Adopted.

HB 300, establishing a commission to study judicial salaries and retirement benefits.

SENATOR ROBERGE: Members of the judiciary currently do not have a retirement fund. Any retirement benefits afforded to the members of the judiciary are appropriated out of the general fund each biennium. When our judiciary group was relatively small in numbers, such a practice was acceptable; however, the number of members in the judiciary has increased and the practice is too burdensome with the general fund. House Bill 300 establishes a committee to study alternative pension systems to the current non contributory pension system for the New Hampshire judges and to examine the cost and the consequences of establishing an alternative pension system for judges in the state. The majority of the committee agreed that the issue was worthy of study and we ask that you support this motion of ought to pass. This is all of the judges, Supreme, Superior, Probate and District Court, all of the judges, and they do not pay into their pension system. They are the only part of state government that does not contribute to their pension system. I

don't believe that the issue of whether we should study the issue is a question here, the question is the makeup of the study committee that is going to study this particular issue. The original bill when it came to the House committee, was three House and three Senate members. I have a copy of it right here. In the House committee, they added a judicial appointment and an appointments by the governor. When it came to ED & A in the Senate, I amended the bill to take out the governor's appointment and the judicial appointment, and go back to three House and three Senate members and also make it a study committee instead of a commissioner. As you know, we can't have study committees with public members on them. Several years ago we decided that we would not have public members on our study committees. Since some people felt that they wanted public members they made it into a commission. My feeling is, certainly the House and Senate is more than capable of studying this issue. I have talked with the judges and other people who are interested, and I have explained to them that we certainly would welcome any input that they have. It is not that we don't want input, we take input from the general public, it is just the House and Senate members have the vote. That is the important thing, that they listen and they get all of the information, and then they vote. I know some people have suggested that we leave the governors' appointees on, but I still feel that we should study it ourselves. That is the way that we do things in the House and the Senate, and I think that is the proper thing to do. I hope that you will support the bill as it came out of the committee with three House members and three Senate members.

SENATOR BLAISDELL: Senator Blaisdell, is this a study committee or is it a commission?

SENATOR ROBERGE: It is a study committee at the moment as it came out of ED & A in the Senate. I would refer you to page 13 in today's calendar. I believe that it is today's calendar. Calendar #36. It is not in today's calendar, I am sorry. Today's calendar is #39.

SENATOR BLAISDELL: Senator Roberge, was there any testimony at all whether or not this should be a commission rather than just a plain study committee? Was there any testimony at all to that?

SENATOR ROBERGE: I don't believe there was. There wasn't much discussion on it at all.

SENATOR BLAISDELL: Was chief justice Brock to come in and speak to this at all?

SENATOR ROBERGE: I don't believe that he did come in and speak.

Recess.

Out of recess.

Question is on the committee amendment

1997-1247s

09/08

Amendment to HB 300

Amend the title of the bill by replacing it with the following:

AN ACT establishing a study committee on judicial pensions.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study pensions for state judges.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study alternative pension systems to the current non-contributory pension system for New Hampshire judges and examine the costs and consequences of establishing an alternative pension system for judges in this state.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a study committee on judicial pensions.

Amendment adopted.

Senator Podles offered a floor amendment.

1997-1368s

09/01

Floor Amendment to HB 300

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study judicial salaries and retirement benefits.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study pensions for state judges.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

(c) Three members, appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study alternative pension systems to the current non-contributory pension system for New Hampshire judges and examine the costs and consequences of establishing an alternative pension system for judges in this state.

4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commis-

sion shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the chief justice of the New Hampshire Supreme Court, the governor, and the state library on or before December 15, 1997.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a commission to study judicial salaries and retirement benefits.

SENATOR PODLES: I would like to introduce an amendment. The Senate Executive Departments and Administration Committee recently voted to amend HB 300. That legislation which originated in the House Judiciary Committee calls for the creation of a commission to study judicial pensions. According to the House legislation, the commission would have consisted of members appointed by the president of the Senate, speaker of the House, and the governor, and the chief justice of the New Hampshire Supreme Court. As amended by the senate committee, the commission concept has been eliminated and replaced by a six member study committee. Three of the members will be appointed by the president of the Senate and three members by the speaker of the House. I am well aware that commissions are not favored by this body; however, the issue of judicial pensions is a sensitive one involving both fiscal and policy concerns. While I think that it is appropriate not to include judges on the commission, I think that it is advisable to allow the sitting governor to make appointments. The governor nominates individuals for service on the bench and the pension issue. I think that it is best that the members of the House and Senate who studied judicial pensions as part of this proposed commission, have the benefits of comment from the public members whom the governor would appoint; therefore, I move that HB 300 as amended by the Senate Executive Departments and Administration Committee, be further amended as follows; three members of the commission shall be appointed by the president of the Senate, three members of the House of Representatives appointed by the speaker of the House, and three members appointed by the governor. Also five members of the commission will constitute a quorum, and a copy of the findings and recommendations for proposed legislation will also be mailed to the chief justice of the New Hampshire Supreme Court in addition to the Senate president, the speaker of the House, the House Clerk and the Senate Clerk. I urge your support.

Recess.

Senator Barnes in the Chair.

SENATOR FRASER: I rise in support of the amendment. It strikes me, Mr. President, that what has been eliminated from the bill that was sent to us by the House was not only in Judiciary, which I agreed to by the way, but also three appointments that would have been made by the governor. My sense is that where the executive is completely removed from the judiciary number one, and secondly, they play such a major role in the budgetary process that they should have a voice in this commission. So on that basis, Mr. President, I support wholeheartedly this amendment that was offered by Senator Podles.

SENATOR LARSEN: I would like to join the support of Senator Podles and Senator Fraser for the floor amendment. As a member of the ED & A Committee, I had concerns and actually voted with the minority in not supporting the formation of a committee, but in fact, supporting a commission. In my mind, TAPE INAUDIBLE on an issue of judicial pensions and salaries to leave the decisions solely to the legislatures, when in fact, we felt that there was need for outside information and expertise. Adding the governor's three appointments allows for some expertise to be added. Clearly any recommendation by that commission would come back to the legislature for all to understand, but when you are dealing with pensions and issues of that level, it is important to have some expertise other than legislative. I support the amendment as offered by Senator Podles.

SENATOR J. KING: I rise in support of Senator Podles motion. I was at the hearing and I voted against the bill at the time. But I did tell them the reasons why, and one of them was that the governor did not have representation and that there should have been a commission; however, I did say that we don't want to lose the bill and I hope that it does pass. Today, again, I reinforce it. I think that we do need the commission and we definitely need the representatives from the executive branch as well. Sooner or later they are going to have to get together. So if they work together they are going to save time, money and whatever might be involved. I strongly support the motion by Senator Podles.

SENATOR GORDON: Senator Larsen, when Senator Podles was speaking, she mentioned that there wouldn't be any judges on the commission, but I don't see anything in the bill that prohibits the members appointed by the governor from being judges. Are you aware of any prohibition?

SENATOR LARSEN: No. The language does not prohibit it; however, I understood that the expertise would come from areas other than judges, people in the field rather than from people who were in the judicial system or people who are judges.

SENATOR GORDON: Do we have any knowledge or understanding of who... we know that the members that would be representing the Senate and the House are all House and Senate members and are vested in the particular process, but do we have any understanding what specific qualifications the governor's appointees might have?

SENATOR LARSEN: I am sure that the governor would make the appointments based on people with some expertise. I am sure that she is very good at understanding the sense of the Senate, having been here for the number of years that she was, that she would listen to some of the comments that we have made here today and take them to heart.

SENATOR GORDON: If this was just a legislative committee, would you have any reason to believe that the input from these people wouldn't be solicited by the legislative committee?

SENATOR LARSEN: I think that there are times when it is important to have that vote sitting on the committee and this is one of those times.

SENATOR PATENAUDE: Senator Larsen, in the past when you have served on committees, haven't you solicited information from the people who you are going to be affecting, and wouldn't you if you were on this committee, and it was just a legislative committee, don't you think that you would take input from all of the places that you could possibly gather it?

SENATOR LARSEN: I think you would. I also think that in this case, it is important to add the expertise right on the committee so that they are present as often as possible, that they are notified at the meeting, and that that participation is on a regular basis. I think that there are times when we hold committee meetings that some people may not be aware of.

Recess.

Senator Delahunty in the Chair.

Question is on the floor amendment.

A roll call was requested by Senator Podles.

Seconded by Senator Fraser.

The following Senators voted Yes: Fraser, McCarley, Blaisdell, Pignatelli, Larsen, Podles, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Squires, Francoeur, Barnes, Danaïs, Delahunty.

Yeas: 11 - Nays: 13

Floor amendment failed.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Blaisdell moved that the Rules of the Senate be so far suspended as to allow committee reports not previously advertised in the Senate Calendar for today's floor action.

HB 229-FN, establishing a reading recovery training program.

Adopted by the necessary 2/3 vote.

HB 229-FN, establishing a reading recovery training program. Finance Committee. Ought to pass. Senator Gordon for the committee.

SENATOR GORDON: House Bill 229-FN, an act establishing a reading recovery training program, was referred to the Finance from the Education Committee. The funding for this bill has been addressed in the budget. The Finance Committee recommends this bill as ought to pass.

SENATOR BLAISDELL: We debated this quite a bit when it was on the floor of the Senate before.

SENATOR D. WHEELER: Senator Gordon, if this bill were to fail now, would the money still be spent in the budget or does this bill have to pass to establish the program to spend the money in?

SENATOR GORDON: I think that you probably understand the process as well as I do in terms of the funding. This bill provides authorization, the funding is in the budget, Senator Wheeler.

SENATOR FRANCOEUR: Senator Gordon, can you tell me how much money is in the budget for this?

SENATOR GORDON: I don't know the specific amount that is in the budget.

SENATOR BLAISDELL: Six hundred thousand.

SENATOR FRANCOEUR: Six hundred thousand, is that correct?

SENATOR BLAISDELL: Yes.

SENATOR RUBENS: As indicated when this bill came out of the policy committee, Senate Education, it continues to be my report that the objective evidence on reading recovery versus other reading interventions, does not measure up. The claims as to 80 percent success are derived from the advocates, the entity that provides the reading recovery, the template for the country, they provide the testing method and then internally report the testing results. They are not peer reviewed. In a Houston research team, I am reading from a report that I have here, lead by the National Institute of Child Health and Human Development lead by Dr. Barbara Foreman of the University of Houston, implemented a large longitudinal study on three types of classroom reading interventions and three types of tutorial interventions in sixty-five classrooms. It was determined as the results of this test, which buttress evidence that I provided to the Senate Education Committee that there is not objective scientific creditable evidence that the six hundred thousand dollars to be spent on this program on the next two years is a better investment than other interventions. Yes, you can claim and make a fair claim, that the investment will result in reading improvement by kids being helped by the intervention, but it has not been proven, there has been no demonstration whatsoever, that that six hundred thousand dollars could be spent in some other way. In fact, there is evidence that it could be spent in some other way and get better results. That is the question facing us. Thank you.

SENATOR LARSEN: I spent a lot of time with this and I think that people understand the issue. Reading recovery has been a program in New Hampshire for a number of years. It has shown to be effective. This bill puts that language into statute. The information that Senator Rubens alleges is factual, has in fact, been refuted by experts in the New Hampshire Department of Education through lengthy presentations and papers to our committee. You can always find an expert on one side or the other. But the real experts are the children of this state who have benefited from this program. This program has been proven nationwide in states where it has been adopted to be 80 percent effective. It goes as far as New Zealand to have shown that it is an effective program to help children who are not reading at grade level, to bring them up to grade level. If we have a program already operating in New Hampshire that is 80 percent effective in bringing children to read, who are having difficulty, I say, it is time that we bring a few more teachers on board to learn this system. There will always be children who do not understand and who don't get it through one method, they need to learn it through the learning recovery if they don't get it the first time. It helps our children. We need to do it. I urge you to vote for this bill, the money is in the budget.

Question is on ordering to third reading.

A roll call was requested by Senator Rubens.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Fraser, McCarley, Whipple, Blaisdell, Squires, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Danais, K. Wheeler, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Johnson, Rubens, Patenaude, Roberge, D. Wheeler, Francoeur.

Yeas: 18 - Nays: 6

Adopted.

Ordered to third reading.

HB 452, establishing a legislative oversight committee on telecommunications restructuring and relative to approval by the public utilities commission of tariffs for new telephone services. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass, Senator Whipple for the committee.

SENATOR WHIPPLE: No oversight committee was established in 1995 upon passage of SB 106 relative to competition among telecommunications providers because all parties were generally in agreement under provisions of the bill and on the idea that competition would take place. Now that we are closer to a competitive telecommunications market, in the interest of making a transition to a competitive market more efficient and effective, a Legislative Oversight Committee is now necessary. The Oversight Committee will consist of seven members of the House and seven members of the Senate. House Bill 452 also shortens the PUC's approval process on tariffs for new telephone services from nine months to 60 days. This shorter time line does not apply to base rate case filings, which typically require a more lengthy examination period. The PUC is capable and supportive of a shortened tariff review time line. An expedited review process will allow new technology to be passed on to consumers in a more timely basis. No one opposed the bill. The committee recommends unanimously, ought to pass.

Adopted.

Ordered to third reading.

HB 129, relative to the definition of emergency services for health care insurance purposes. Insurance Committee. Vote: 7-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAIS: This bill standardizes the definition of "Emergency services for health care insurance purposes." This will help to ensure that insurance providers are not defining what is an emergency service differently, and because of that denying payment. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 334, establishing guidelines for assessing the eligibility of certain providers for third party reimbursement. Insurance Committee. Vote: 7-1. Inexpedient to legislate, Senator Squires for the committee.

SENATOR SQUIRES: The intent of this bill was to establish minimum criteria thresholds in statute for consideration of whether or not mental health care providers can receive third party reimbursements. The Insurance Committee felt on a 7-1 vote that establishing these criterias in statute was not appropriate. The House Commerce Committee or the Senate Insurance Committee wanted to draft their own guidelines about who should be considered for third party payments. They could establish these guidelines in statute, it is inappropriate, and can be seen as handcuffing future legislatures. The Insurance Committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 442, requiring insurers to cover certain costs associated with reconstructive surgery after a mastectomy. Insurance Committee. Vote: 6-2. Ought to pass with amendment, Senator K. Wheeler.

1997-1258s

08/09

Amendment to HB 442

Amend RSA 417-D:2-b as inserted by section 1 of the bill by replacing it with the following:

417-D:2-b Reconstructive Surgery. Every insurer subject to this chapter that provides individual or group coverage for mastectomy surgery shall provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

SENATOR K. WHEELER: House Bill 442 requires insurers which provide individual or group benefits for mastectomy surgery to cover certain costs associated with reconstructive surgery after a mastectomy. It says that if the insurers already provide mastectomy coverage, they shall also provide coverage for reconstruction on the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a symmetrical appearance. This is not a new mandate, but is saying that if mastectomies are already covered, you need to be able to finish the job. Also the Senate Insurance Committee amended the bill to its original form by saying that the surgery shall be in the manner chosen by the woman and her physician. Testimony in the House and Senate from breast cancer survivors, doctors and insurers, indicated an overwhelming support for this bill. Breast cancer is the most common cancer diagnosed in New Hampshire women. Roughly half of the 960 New Hampshire women who will be diagnosed this year with breast cancer will undergo mastectomy as part of their treatment. Insurance companies routinely cover reconstruction of every other body part after cancer surgery. Breasts, however, have been subject to discrimination because insurance companies claim that the surgery is cosmetic and not medically necessary. Breast reconstruction following cancer surgery is not cosmetic surgery. According to testimony by former New Hampshire first lady, Heather Merrill, the incidence of breast cancer in New Hampshire is the sixth highest in the United States. The most effective way to fight breast cancer today, is early detection and treatment. Studies have shown that the fear of losing your breast is the leading reason why many woman do not participate in early breast detection programs. Imagine the increased anxiety after learning not only that you will lose a breast, but that your insurance company will not pay to try to make you as close to whole again as possible. This bill will not cause a run of the insurance companies as it is estimated that nationally of all of the women diagnosed with breast cancer, 50 percent choose lumpectomy and half of the remaining 50 percent who chose mastectomy, only about half of those choose reconstructive surgery. I hope that you will support the report of the Insurance Committee and vote ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 385, relative to reporting and registration requirements for lobbyists and employees of lobbyists. Internal Affairs Committee. Vote: 4-0. Rerefer to committee, Senator Russman for the committee.

SENATOR RUSSMAN: The intent of this bill is to further clarify what the lobbyists need to report regarding contributions that they give. The Ethics Committee is also reviewing this matter, and we think that there is more time needed for some language changes in it. So we ask that the motion of refer be adopted. Thank you.

Committee report of rerefer is adopted.

HJR 6, authorizing the joint legislative historical committee to acquire and cause to be displayed a portrait of suffragist Marilla Marks Ricker. Internal Affairs Committee. Vote: 4-0. Ought to pass, Senator Barnes for the committee.

SENATOR BARNES: The committee gave me the great honor of introducing this bill on the Senate floor. HJR 6, this House Joint Resolution authorizing the Joint Legislative Historical Committee to acquire and cause to be displayed a portrait of suffragist Marilla Marks Ricker who was an earlier suffragist in New Hampshire. The Internal Affairs Committee recommends, unanimously, this bill as ought to pass.

SENATOR RUBENS: Senator Barnes, are there any baseball teams that are threatening to not come to this state if we don't pass this bill?

SENATOR BARNES: You never know. There could be a female league out there that could be thinking about it.

Adopted.

Ordered to third reading.

HB 52, authorizing the assignment of superior court judges to hear cases in the district court. Judiciary Committee. Vote: 6-0. Ought to pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 52 authorizes the chief justice of the Supreme Court to assign Superior Court judges to hear cases in the District Court. The assignment must be done after consultation with the administrative judges of the Superior and District Courts. This bill is needed to address high volume District Courts such as Manchester and Nashua. As you know, this session, we defeated a bill to add judges to the Manchester and Nashua District Courts even though they are needed. Both administrative judges, Judge Kelly and Judge Nadeau testified in favor of this bill. The committee recommends ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 202, relative to the sale of air guns to minors and the use of air guns by minors and prohibiting the furnishing of arms to persons under 17. Judiciary Committee. Vote: 8-0. Inexpedient to legislate, Senator D. Wheeler for the committee.

SENATOR D. WHEELER: This bill would have repealed and reenacted RSA 644:14. Our existing law regarding selling air rifles to young persons. The bill would have redefined the term "air gun." The committee determined that this change to the law was unnecessary and creates more problems than it fixes. We ask you to support inexpedient to legislate on our committee vote of 8-0.

Committee report of inexpedient to legislate is adopted.

HB 211, defining the terms "psychological injury" and related terms under the child protection act. Judiciary Committee. Majority report;

Vote: 6-2, Rereferred to committee, Senator Podles for the committee. Minority report, Vote: 2-6, Inexpedient to legislate, Senator D. Wheeler for the committee.

SENATOR D. WHEELER: I rise in opposition to the majority motion of rerefer to committee and ask you to support me in inexpedient to legislate. Current law implies that psychological abuse can only be found when connected to physical or sexual abuse or neglect. The statute currently reads, "abused child means any child who has been sexually abused or intentionally physically injured or psychologically injured so that the child exhibits symptoms of basically A & B emotional problems generally recognized to result from consistent mistreatment or neglect." Testimony during the Senate hearing from cosponsor, Representative Richardson, when she quoted a doctor who indicated that the current law ties psychological abuse to physical issues. "Psychological abuse is an area that we need to move very carefully in." I would like to quote from a September 8, 1995 letter from marital master, Pam Kelly, "It is a difficult area, fraught with elusive problems of proof. It requires the exercise of extreme caution. TAPE INAUDIBLE experts will often disagree about the interpretation of the same data." Our Supreme Court has on several occasions indicated that a reluctance to rely too heavily on expert opinion in the mental health field. It seems that the House never bothered to address these concerns of Marital Master Kelly, and they are still in the bill. The bill has already been studied by the House so why should we study this issue more. Hundreds of people showed up at the public hearing on this bill, and hundreds more have called and written to us asking us to kill this bill. Are we going to ignore them? Have the bill's sponsors and their friends put something together to make this bill acceptable? No, it hasn't happened. We shouldn't have to study this further, and I don't think that we can fix it. The intention of the framer was to increase state intrusion into families. Currently the courts are not intervening excessively in this area. This would increase the number of reports to the agency and the number of cases handled by social workers and the organizations that do therapy. If the essence of this bill were to pass, even after another year of study, it will create a new wave of controversy around DCYF. The statutory mandatory reporting will compel many to make reports who would not otherwise make reports. The law requires that any person having reason to "suspect," and I emphasize "suspect" that a child has been abused and neglected and that would include psychologically now, if this bill were to pass, "shall report in accordance with this chapter even on a suspicion." A whole new wave of false acquisitions and reporting will result with renewed controversy for DCYF, not to mention the expense to the state. So I ask you to join me in voting no on the motion to rerefer and voting yes for inexpedient to legislate.

SENATOR RUBENS: I rise in support of Senator Wheeler's motion for inexpedient to legislate on this bill. I will read a quotation from the Practice Guidelines on the American Professional Society on the Abuse of Children. The guidelines here are entitled Psycho Social Evaluation of Suspected Psychological Maltreatment of Children and Adolescents. "Child behavior often provides evidence of psychological maltreatment behavior provides evidence. One must be cautious, however, about inferring causation from behavior. Multiple pathways lead to particular behaviors when considering the possibility of psychological maltreatment. The professional should rule out other factors such as psychological

trauma, unrelated to maltreatment, inherited or congenital vulnerabilities and various forms of mental illness." The question here, is whether this bill could ever be repaired so as to separate the strong tendency to use behavior as a legal inference of causation. I don't think that the bill can be repaired to severe behavior for causation; therefore, I would recommend inexpedient to legislate based upon the recommendations of the Practice Guidelines of the American Professional Society on the Abuse of Children. Thank you very much.

SENATOR COHEN: I rise in opposition to the motion of inexpedient to legislate. There is no question that this bill as it came over, needed some work. As David Wheeler said, many, many, many people came to speak at the public hearing. Many people spoke in favor of the bill as well as spoke against. There is great concern that right now, what this bill is trying to address is the fact that we have "psychological injury" in the statute, but there is no definition of what we mean by "psychological injury." Now, I hope that Senator Wheeler is not suggesting that the category of "psychology injury" does not exist, that there is no such thing as "psychological injury" because there most certainly is. We need a bit more time. I have been working on looking at legislation in other states to better define what we mean by "psychological injury." We can get there. With more time, we can get there to simply define what "psychological injury" is. If we are going to have the words "psychological injury" in the statute, our judges need to have a better definition of what precisely "psychological injury" is. Other states have come up with definitions, we can come up with a definition. It is something that is serious, that happens to our children. We have a responsibility to the children in the state of New Hampshire to protect them from "psychological injury." It is very important that we do not kill this bill to protect kids, our children from "psychological injury." We need to do a little bit of work. I am certain that we can come up with something over the summer, something that will be agreeable. This is an extremely important bill and it needs to be rereferred.

SENATOR HOLLINGWORTH: I am going to be very brief because I think that this is important. I received several phone calls with people in opposition. When I talked to them and told them what the issue was and that the committee was having some serious difficulties with the terminology. They were all in agreement that there needed to be something in place and that we were trying to find an amendment that would define some of the terms that were there, but not in the manner that they were addressed and that we were having extreme difficulty and that wanted to look at what was happening in other states. The people on the phone were amazing. As soon as I began talking about it, they started to reveal that they were home schoolers and that they had received telephone calls from people telling them that the term "isolation" was in there, and that they thought that it meant that if they kept their kids in home schooling, that somehow that would be considered isolation. Clearly after speaking with them, I could believe that these people were sincere. They would like to work with us and pass legislation. They believe that there is a need for legislation but they were afraid of what was there. I think that if we did rerefer this committee, we could bring in something better. I have several telephone numbers and names of people, and I would like to have them come in and sit with us, and see if we can't resolve this problem. I truly believe that there is a will there, just you have to give us the way.

SENATOR FRANCOEUR: I rise in support of Senator David Wheeler's motion. This bill is to increase state intervention not decrease it. The statement of intent. The current definition of "psychologically injured" under the Child Protection Act lacks clarity which is not quite true. Such lack of clarity limits identification and intervention by the judiciary and the updated definition is intended to be construed broadly. Statements of intent do not go into the statute books, but this clearly indicates its purpose, more state and therapeutic intervention. If so, how will this bill impact DCYF's fiscal picture? Why after several years of study does this bill still lack a fiscal note? We don't need to study it, let the bill's sponsors work this out for themselves. It was flagged by the LBA and the chair of the House Finance Committee for review, but was not set. With DCYF's settlements, which have grown over 12-14 percent every two years after adjustments for inflation, and that is not counting additional money needed in between granted by the Fiscal Committee. To sum this up, the bill will be costly and there is simply no reason for us to study it. Let the proponents of this thing work out the problems they neglected to deal with over several years including ignoring the advice of court counsel. Thank you, Mr. President.

SENATOR K. WHEELER: I appreciate the courtesy. I just wanted to make sure that the body understood that the present definition "psychological injury" is not well defined, it just says, "exhibiting symptoms of emotional problems generally recognized to result from consistent mistreatment or neglect." It is very vague. It allows children to be considered "psychologically injured" when they haven't been. It allows those who have been injured to slip through the cracks. It clearly deserves to be studied and I wanted to point out to the body that the vast majority of the committee did wish to study it and to rerefer it. Thank you, Mr. President.

Question is on the motion of inexpedient to legislate.

A roll call was requested by Senator D. Wheeler.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Johnson, Rubens, Patenaude, Whipple, Roberge, D. Wheeler, Francoeur, Barnes, Danais, Delahunty.

The following Senators voted No: Gordon, Fraser, McCarley, Blaisdell, Squires, Pignatelli, Larsen, Podles, J. King, Russman, K. Wheeler, Hollingworth, Cohen.

Yeas: 11 - Nays: 13

Motion of inexpedient to legislate failed.

Senator Podles moved to rerefer to committee.

SENATOR PODLES: House Bill 211 provides a more specific and objective definition of the terms "psychological injury" as used in RSA 169-C:3. Testimony established that the present definition of "psychological injury" was insufficient. Judges and other individuals testified that abuse cases have been lost because of failure to prove "psychological injury." The committee believes that some change is necessary to the statute, but that the bill still has problems, including the use of words such as "isolating" and "hostile rejecting," therefore, the committee recommends rereferral so that an acceptable change to the statute can be worked out. I would like to also

emphasize that "psychologically injured" is a separate category now under "abused child." The current law is vague, and it is very difficult to prove what has happened. I urge for passage of rerefer.

Adopted.

HB 211 is rereferred to the Judiciary Committee.

Senators Francoeur and D. Wheeler in opposition to the motion of rerefer on HB 211.

HB 243, relative to criminal penalties and license revocation following a conviction for shooting and wounding or killing a human being while hunting. Judiciary Committee. Vote: 8-0. Ought to pass with amendment, Senator D. Wheeler for the committee.

1997-1487s

10/08

Amendment to HB 243

Amend RSA 207:37-c, II as inserted by section 2 of the bill by replacing it with the following:

II. Any person, while on a hunting trip, or in pursuit of wild animals or wild birds, or while target practicing, who shoots and causes the death of any human being, may be charged pursuant to the appropriate criminal code statute.

AMENDED ANALYSIS

This bill:

(1) Provides for a misdemeanor penalty for the negligent shooting and wounding of a human being while hunting;

(2) Provides that the death of a person caused by a shooting while hunting may be charged according to the criminal code;

(3) Requires a conviction of a person shooting and wounding or killing a human being before revocation of the person's hunting license;

(4) Increases the penalty for violations of the requirement to report hunting related shootings.

SENATOR D. WHEELER: Mr. President, this bill amends a law regarding certain hunting accidents and hunting licenses. The bill provides for the loss of a hunting license for five to ten years if a person injures or kills another person while hunting. The bill also adds a section entitled, "shooting human beings while hunting." This section, provides that a person who negligently shoots and wounds another, shall be guilty of a misdemeanor. In addition, a person who shoots and kills another may be charged with a criminal offense. The amendment substitutes the word "may" for "shall" in this section. Finally, the bill changes the penalty for failure to report hunting accidents from a violation to a misdemeanor. The committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 365, providing that communications made during family mediation shall be privileged. Judiciary Committee. Vote: 6-2. Inexpedient to legislate, Senator D. Wheeler for the committee.

SENATOR D. WHEELER: This bill would have amended RSA 516 by adding a new section. RSA 516 relates to witnesses and privileges. The new section would have provided that family mediation communications shall be privileged and confidential and shall not be discussed except

under very limited circumstances. Statements made during family mediation sessions shall not be admissible in court. RSA 516:35 presently provides that religious leaders shall not be required to disclose a confession of confidence. No family mediator shall be required to disclose any information that it has received from its client unless the mediator receives material information alleging abuse or sexual abuse or neglect as defined by statute or information about a felony that has been or is about to be committed. The committee believes that this bill is unnecessary. The present law requires individuals to report abuse and neglect, therefore the committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 386, relative to the definition of "suitable person" for purposes of licensing a suitable person to carry a loaded pistol or revolver. Judiciary Committee. Vote: 6-2. Inexpedient to legislate, Senator Cohen for the committee.

SENATOR COHEN: This bill would have amended RSA 159:6. The present law provides that a license to carry a handgun shall be issued if the applicant is a "suitable person" and has a proper purpose. The present statute does not provide any definition for the phrase, "suitable person." The proposed definition is not very helpful as it simply provides that a suitable person is a person who is not prohibited by law from owning or possessing pistols or revolvers. The committee believes that the decisions should be left to the discretion of the police chief or mayor. This position has the support of the Police Chiefs Association and the committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 416, relative to sentencing for juvenile delinquents. Judiciary Committee. Vote: 8-0. Ought to pass, Senator Cohen for the committee.

SENATOR COHEN: This bill amends RSA 169-B and was requested by the Division of Youth Services. The bill more clearly defines the meaning of the phrase of "commitment" as used in the statute. This bill defines "commitment" to include "placement at a facility, administrative release to parole, or other release." The present law does not specify the types of commitment, the different types, and allowed only commitment to the Youth Development Center. This bill will allow commitment to different types of facilities. The bill also requires the commissioner to notify the court within five business days of any such placement and of any subsequent changes in placement within 60 days. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 431, relative to the appointment of attorneys and guardians ad litem, and eliminating certain de novo hearings under certain laws related to child protection. Judiciary Committee. Vote: 7-1. Ought to pass with amendment, Senator D. Wheeler for the committee.

1997-1489s

09/08

Amendment to HB 431

Amend the title of the bill by replacing it with the following:

AN ACT relative to the appointment of attorneys for delinquent or neglected or abused children.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Appointment of Attorney for Delinquent Children. Amend RSA 169-B:12 by inserting after paragraph I the following new paragraph:

I-a. When an attorney is appointed as counsel for a child, representation shall include counsel and investigative, expert and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child.

2 "Recommendation" of Guardian ad Litem Substituted for "Findings;" Child Protection Act. Amend RSA 169-C:10, II to read as follows:

II. (a) In cases involving a neglected or abused child under this chapter, where the child's expressed interests conflict with the ~~[findings]~~ **recommendation for dispositional orders** of the guardian ad litem, the court may appoint an attorney to represent the interests of the child. In any case of neglect or abuse brought pursuant to this chapter, the court shall appoint an attorney to represent an indigent parent alleged to have neglected or abused his or her child. In addition, the court may appoint an attorney to represent an indigent parent not alleged to have neglected or abused his or her child if the parent is a household member and such independent legal representation is necessary to protect the parent's interests. The court shall not appoint an attorney to represent any other persons involved in a case brought under this chapter.

(b) When an attorney is appointed as counsel for a child, representation may include counsel and investigative, expert and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child.

3 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill outlines services which are to be provided by counsel appointed for delinquent children and neglected or abused children.

SENATOR D. WHEELER: Mr. President, this bill amends RSA 169-B:12 "Appointment of an attorney for delinquent children." It defines more clearly, the duties on an attorney who is appointed as counsel for the child. The representation may include investigative and other services and the ability to subpoena witnesses. The bill also amends RSA 169-C:10 to clarify that the guardian ad litem makes "recommendations" not "findings." The judge makes the factual findings. The present law uses the phrase "findings" which is not accurate. The bill also provides that when an attorney is appointed as an attorney for a child in an abuse and neglect case, such representations may include investigations and experts in other services. The amendment removed proposed change to the appeal process for abuse and neglect cases. The original bill would have required all such appeals to be filed in the Supreme Court rather than a de novo appeals in the Superior Court. The committee believes that such appeals should remain in the Superior Court and asks for your support for ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 468-L, eliminating a requirement that registers of deeds keep original copies of officers' returns of attachments and writs of execution on file permanently. Judiciary Committee. Vote: 8-0. Ought to pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This bill amends the obligations of registers of deeds for certain documents filed in their offices. The present law recognizes that copies of attachments of real estate after completed, shall be kept on file. The file allows the registrar to keep the return on file or recorded as provided in the bill. The bill allows the registrar of deeds to photocopy or microfilm the originals in addition to, or in lieu of, other recording methods. The bill allows the same procedure to be utilized for returns or writs of execution. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

HB 554, relative to damages in suits brought by administrators of an estate. Judiciary Committee. Split report; Vote: 4-4, Ought to pass with amendment, Senator Hollingworth for the committee. Split report; Vote: 4-4, Inexpedient to legislate, Senator D. Wheeler for the committee.

1997-1490s

09/02

Amendment to HB 554

Amend RSA 556:12 as inserted by section 1 of the bill by replacing it with the following:

556:12 Damages for Wrongful Death, Elements. If the administrator of the deceased party is plaintiff, and the death of such party was caused by the injury complained of in the action, the mental and physical pain suffered by the deceased in consequence of the injury, the reasonable expenses occasioned to ~~[his]~~ **the** estate by the injury, the probable duration of ~~[his]~~ life but for the injury, and ~~[his]~~ **the** capacity to earn money during ~~[his]~~ **the deceased party's** probable working life, may be considered as elements of damage in connection with other elements allowed by law, in the same manner as if the deceased had survived. ***In addition, the trier of fact may award damages to a surviving spouse of the decedent for the loss of the comfort, society, and companionship of the deceased; however, where fault on the part of the decedent or the surviving spouse is found to have caused, in whole or in part, the loss complained of, damages recoverable shall be subject to diminution to the extent and in the manner provided for in RSA 507:7-d.***

SENATOR D. WHEELER: I would like to withdraw our recommendation for inexpedient to legislate pending proposed floor amendment but reserve the right to bring it back again if needed.

Senator D. Wheeler withdrew his motion of inexpedient to legislate.

SENATOR HOLLINGWORTH: I would like to offer ought to pass with amendment and speak to the committee amendment. I would also like to state that after that passes, I would be supporting a further amendment by Senator Squires. Currently in the law, adopted in 1966, the loss of consortium award for personal injury is not in wrongful death cases. Since enactment in this law, there was no evidence of even one excessive jury award for loss of consortium. I have an article that appeared in Fosters Daily Democrat in 1995, and I would like to quote chief justice Nadeau. In this article he says, "The states jury system is not plagued with frivolous civil suits and jury awards and not out of control

in New Hampshire. The verdicts are small and not large. We just don't have large runaway verdicts." He attributes this to, "Good old Yankee traditions." We have a less mobile population and a more frugal population and I think that it reflects in the jury awards. In other New England states, the loss of consortium and wrongful death is as follows, Rhode Island allows loss of consortium of claims for wrongful death of a spouse as well as for minor children and parents. There is no cap. Connecticut allows loss of consortium claims for wrongful death of the spouse. There is no cap. Massachusetts allows loss of consortium claims for wrongful death of a spouse and children. There is no cap. Vermont allows loss of consortium for the death of a child but not for the spouse. There is no cap. Maine allows loss of consortium claims for spouse and it appears for children as well. There is a cap of one hundred and fifty thousand dollars plus an additional cap of seventy-five dollars for punitive damages, for a total cap of two hundred and twenty-five thousand dollars. In New Hampshire we have no punitive damages. As you can see, New Hampshire is the only New England state that does not recognize loss of consortium and wrongful deaths. Since the bill before you only applies to spouses, is far more conservative than most of the other states. The motion that will be made after the motion of ought to pass by amendment by the committee, the motion will be offering a cap of one hundred and fifty-thousand dollars. I have to say that I am opposed to that, although I am going to vote for that. It is very hard for me to do that. I want to just suppose for one moment, that if the death of Ron Goldman and Nicole Simpson happened in New Hampshire, and first, the parents of Ron Goldman could not claim because there is no wrongful death for parents to make a claim against it. But suppose Ron Goldman was married. His wife would have a cap of only one hundred and fifty thousand dollars. That seems, when you recognize how horrendous something could be, it just doesn't seem fair. I mean to place a cap... you either believe in the jury system or you don't. You either believe that people listen to all of the evidence, hear all of the facts, and can make the decision that they can hear or you don't. Unfortunately, to have this bill pass, we must make hard choices. I will make the hard choice to support the amendment, but I do want everyone to be aware that there is no evidence that we need to be making this move. I will support it.

SENATOR FRANCOEUR: Senator Hollingworth, I know that during your speech you spoke about New Hampshire not having, what I will call "liberal juries" in higher awards. Was it not true, that during testimony that one of the lawyers who spoke in favor of this, that I asked him. If New Hampshire did have very liberal juries, would he still want this bill? He answered in the affirmative?

SENATOR HOLLINGWORTH: That is one individual who testified. In New Hampshire our cases are going down. Ninety percent of the cases were settled out of court by jury. From what I hear, is that when you have a cap, what happens is that they settle for the highest amount. Instead of juries making decisions that are going to be for less, they are going to turn around and say, give us the highest amount. I think that if anything, it is going to cost more.

SENATOR PODLES: Senator Hollingworth, isn't it true that the present wrongful death statute does not allow for the recovery of the loss of consortium **TAPE INAUDIBLE** so mental and physical suffering? In addition, some courts have allowed loss of enjoyment of life damages?

SENATOR HOLLINGWORTH: It is true, Senator Podles. What that basically does, is that if you are a woman who has been in the marketplace and working, and you have earned an income, then your value would be based on the value that you have had and the economic loss, but there would be no way for the family to apply for any other loss if that woman was not working. That is totally unfair to older people, because what they do when they figure out those numbers that you mentioned, they figure out how long that you are going to live, and how much you are going to make, and also how much it is going to cost you to live, then they subtract those things away and say, okay that is what you can have as awards. That is how they are based, purely on those issues and that is why they bring them on that, because for some people, men as well today, choose to be home minding their children, they have no income, so they will be classified as not earning an income, so they won't look at the amount of money that he could have earned in his lifetime. It is unfair to those who happen to want to be in the home.

Recess.

Out of recess.

SENATOR HOLLINGWORTH: I would just like to tell the Senators that the amendment that was accepted by the committee was an amendment that was brought in that reduces any kind of award by any kind of involvement of the party who would receive the award. That was an agreed upon amendment from the trial lawyers and the insurance companies and just about everyone else who was out there. What it says is that if for some reason you were in any way involved in the accident or the injury that happened, you would have a reduction to what you would be receiving.

Question is on the committee amendment.

Senator Francoeur requested a roll call.

Senator Francoeur withdrew his request for a roll call.

Amendment adopted.

Senator Squires offered a floor amendment.

1997-1538s

09/08

Floor Amendment to HB 554

Amend RSA 556:12 as inserted by section 1 of the bill by replacing it with the following:

556:12 Damages for Wrongful Death, Elements.

I. If the administrator of the deceased party is plaintiff, and the death of such party was caused by the injury complained of in the action, the mental and physical pain suffered by the deceased in consequence of the injury, the reasonable expenses occasioned to [his] *the* estate by the injury, the probable duration of [his] life but for the injury, and [his] *the* capacity to earn money during [his] *the deceased party's* probable working life, may be considered as elements of damage in connection with other elements allowed by law, in the same manner as if the deceased had survived.

II. *In addition, the trier of fact may award damages to a surviving spouse of the decedent for the loss of the comfort, society, and companionship of the deceased; however, where fault on the part of the decedent or the surviving spouse is found to have caused, in whole or in part, the loss complained of, damages re-*

coverable shall be subject to diminution to the extent and in the manner provided for in RSA 507:7-d. In no event shall damages awarded under this paragraph exceed \$150,000.

SENATOR SQUIRES: That 1:05 p.m. I am proposing a floor amendment and after its distribution I would like to speak to it. Thank you, I offer this amendment which is as Senator Hollingworth pointed out, a cap of one hundred and fifty thousand dollars in cases claiming loss of consortium and wrongful death. I do that for a number of reasons. First of all, I would like to point out that the present statute is in fact a cap. The cap is zero. What the bill before you, before this amendment contends is, that we remove that cap from zero to infinity. That, I think, is not appropriate. I agree to some extent, that this is unfair, but I also wish to point out, that the number one proponent of this bill, are the trial lawyers, which says to me that there may possibly be some self-interest. I make no accusations, but I think that it is possible. I say that because of this, to me, need various concepts of contingency and a financial incentive for the practitioners of the trial lawyers is to get as high a judgment as possible, not necessarily for the interest of their clients, but for perhaps other reasons. The down side of that is that a case that isn't worth anything, is not liable to be taken. It is as though I get an enormous fee for saving a life of a millionaire and nothing for saving a life of a pauper and that is not fair in any event. This issue has been discussed in the committee, it has been discussed with all parties, it is agreed to, and it seems fair. I urge to pass this amendment at the cap of one hundred and fifty thousand dollars. Thank you.

SENATOR RUSSMAN: I didn't plan to speak, but after the comments that I heard, I felt compelled to speak. I don't do wrongful death cases, but I can tell you this, it is a nice way of saying that a loss of consortium for wrongful death, but if somebody carelessly kills your spouse, whether it is in a car accident, whether it is your neighbors dog rips them apart or whether some doctor, carelessly does a procedure that results in the death of your spouse, and what you lose, my friends, what you lose, is all the companionship that you have had for all of those years, all of the friendship, and all of the camaraderie, and all of those talks and walks that you may have had. That may have some value frankly, and I think that while I am going to support the one hundred and fifty thousand dollar cap, I hope that the people don't think that we are just saying that companionship and camaraderie are only worth one hundred and fifty thousand dollars. I think that we would be far better off to leave it to a jury of our peers or fellow citizens to determine that. But we as the legislature have decided to get involved with that and at least we are giving something there, when perhaps it is not enough. For the time being, we certainly would support the issue. But certainly there is more here than meets the eye than self-interest, especially if we went into other professions, fees that may be charged for various procedures.

Floor amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator D. Wheeler.

The following Senators voted Yes: F. King, Gordon, Fraser, McCarley, Patenaude, Blaisdell, Squires, Pignatelli, Podles, Barnes, J. King, Russman, Danais, K. Wheeler, Delahunty, Hollingworth.

The following Senators voted No: Johnson, Whipple, Roberge, D. Wheeler, Francoeur, Larsen, Cohen.

Yeas: 16 - Nays: 7

Adopted.

Ordered to third reading.

Senator Rubens in favor of HB 554.

HB 711, relative to post-termination commissions. Judiciary Committee. Vote: 8-0. Ought to pass with amendment, Senator Gordon for the committee.

1997-1488s
09/02

Amendment to HB 711

Amend the title of the bill by replacing it with the following:

AN ACT relative to post-termination commissions and reinstating the corporate charter of MultiProcess Computer Corporation, Inc.

Amend the bill by replacing all after section 1 with the following:

2 Reinstatement of Charter of MultiProcess Computer Corporation, Inc. The charter of MultiProcess Computer Corporation, Inc., of Windham, New Hampshire, incorporated on September 25, 1989, was forfeited on November 1, 1991, under former RSA 293-A:95, I(a) now codified at RSA 293-A:14.21. Upon payment of any fees in arrears, a reinstatement fee at \$135 under RSA 293-A:1.22(a)(7), the filing of any annual reports required by law, the filing of an affidavit with the secretary of state stating that there are no lawsuits pending against the corporation and obtaining a certificate of good standing from the department of revenue administration, MultiProcess Computer Corporation, Inc., shall be reinstated for all purposes as a New Hampshire corporation. This reinstatement shall be retroactive to November 1, 1991.

3 Effective Date.

I. Section 1 of this act shall take effect Jan. 1, 1998.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill adds a penalty of triple damages in a civil action for a violation of the law relative to post-termination commissions to be paid to sales representatives by the sales representative's principal.

The bill also reinstates the corporate charter of MultiProcess Computer Corporation, Inc.

SENATOR GORDON: This bill amends RSA 339-E which is entitled sales representatives and post termination commissions. The law presently allows sales representatives who are not paid a commission to collect damages from the principal involved in the transaction. The bill expands the damages to include exemplary damages of up to three times the commission owed. This amount will act as a deterrent to large companies who fail to pay commission. The amendment also reinstates a corporate charter. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 430, relative to registration of political committees and to political expenditures and contributions. Public Affairs Committee. Vote: 5-1. Ought to pass with amendment, Senator Roberge for the committee.

1997-1419s

04/09

Amendment to HB 430

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-6 to read as 5-8, respectively:

3 Political Expenditure Limitation Amounts. Amend the section heading of RSA 664:5-b to read as follows:

664:5-b Political Expenditure Limitation Amounts; *Calculation Period; Exemption.*

4 New Paragraphs; Political Expenditure Limitation Amounts; Calculation; Exemption. Amend RSA 664:5-b by inserting after paragraph VI the following new paragraphs:

VII. Notwithstanding any other provisions of law to the contrary, total expenditures made by a candidate for federal office who voluntarily agrees to limit campaign expenditures as provided in RSA 664:5-a shall include:

(a) Any political expenditure made on or after the first day of the period for filing for candidacy pursuant to RSA 655:14; and

(b) Any political expenditure made prior to the first day of the period for filing for candidacy pursuant to RSA 655:14 if such expenditure:

(1) Is made after December 31 of the prior year and exceeds \$5,000; and

(2) Is used after the first day of the period for filing for candidacy pursuant to RSA 655:14.

VIII.(a) Notwithstanding any other provisions of law to the contrary, a candidate for federal office shall not be subject to the voluntary political expenditure limitations established under this chapter if independent expenditures in excess of \$1,000 are made after the first day of the period for filing for candidacy pursuant to RSA 655:14 for the purposes of influencing the outcome of such candidate's campaign. This paragraph shall separately apply to the primary election and to the general election.

(b) Upon the request of any candidate, the secretary of state shall determine within 48 hours whether the requirements of subparagraph (a) have been satisfied. If the secretary of state does not act within 48 hours, the candidate shall be automatically exempt from the voluntary political expenditure limitations.

AMENDED ANALYSIS

This bill:

I. Changes the deadline for political committees to register with the secretary of state.

II. Requires each political committee to designate a treasurer or agent.

III. Requires that total expenditures made by a candidate for federal office who voluntarily agrees to limit campaign expenditures shall include:

(a) Any political expenditure made on or after the first day of the period for filing for candidacy pursuant to RSA 655:14; and

(b) Any political expenditure made prior to the first day of the period for filing for candidacy pursuant to RSA 655:14 if such expenditure:

(1) Is made after December 31 of the prior year and exceeds \$5,000; and

(2) Is used after the first day of the period for filing for candidacy pursuant to RSA 655:14.

IV. Requires that a candidate shall not be subject to the voluntary political expenditure limitations if independent expenditures in excess of \$1,000 are made after the first day of the period for filing for candidacy for the purposes of influencing the outcome of such candidate's campaign. Upon the request of any candidate, the secretary of state shall determine within 48 hours whether the independent expenditures provisions have been satisfied.

V. Modifies other registration requirements for political committees and certain reporting requirements for such committees.

VI. Repeals certain laws relative to campaign advertising and to independent political committee expenditures.

SENATOR ROBERGE: Mr. President and members of the Senate, the specific changes presented in HB 430 come as a result of rulings by the United States District Court for the district of New Hampshire and the first circuit court of appeals which declared many New Hampshire statutes concerning campaign financing to be unenforceable and unconstitutional. Under HB 430, political committees shall register with the secretary of state no longer than twenty-four hours after receiving any contribution in excess of \$500 or before making any expenditure. HB 430 also requires that the political committee shall designate a treasurer or an agent who is a citizen of New Hampshire who is authorized to receive legal documents, and through proof, may be obtained access to the records of the political committee. RSA 664:5, I prohibiting political expenditures and RSA 664:6, IV-a reported by political committees are also amended to comply with the courts orders. In New Hampshire right-to-life political action committee versus William M. Gardner, S.O.S as a result of the first circuit court of appeals decision, to reverse and remand the U.S. District Court's order of dismissal by striking down New Hampshire's ceiling on independent expenditures. The U.S. District Court for New Hampshire declared RSA 664:5,V; RSA 664:3, 1 & 11 to be facially unconstitutional. This bill is in essence, a housekeeping measure which has the support of the attorney general's office. The amendment to the bill requires that total expenditures made by a candidate for federal office who agree to cap expenditures, shall include, any expenditure made on or after the first day of the period of filing for the candidacy, 2) any expenditure made prior to the first day of candidacy filing period if the expenditure is made after December 31 of the prior year and exceeds five thousand dollars and is used after the first day of candidacy filing period. The amendment also provides for a candidate of a federal office shall not be subject to the spending cap that he or she may have voluntarily agreed to if independent expenditures greater than one thousand dollars are made after the first day of the period of filing for the candidacy or the purpose of influencing the outcome of such candidates campaign. In other words, if an entity which supports one candidate acknowledges that their candidates opponent accepted the spending cap and because of the opponents cap decided to come and wage a multi-million dollar campaign against that opponent, that opponent who initially volunteered to agree to the cap, to cap his or her expenditures, would then not be held to the cap. The amendment addresses a fairness issue so that outsiders can not take advantage of those who agreed to the spending cap. No one opposed the bill. The committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 130, clarifying the authority of county commissioners to arrange for work by prisoners. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass, Senator Squires for the committee.

SENATOR SQUIRES: House Bill 130 will allow county commissioners to authorize superintendent of the county correctional facility to arrange for "uncompensated public service" by prisoners to work at sites owned by nonprofit or municipal owned grounds or property. Current law allows for such work at recreational facilities or conservation projects. This bill expands the law to include nonprofit organizations. These arrangements are to be authorized by the superintendent of the county correctional facility. The safe guards for improper use of the inmates are still present. The Public Institutions, Health and Human Services Committee recommends ought to pass.

Senator Barnes moved to have **HB 130**, clarifying the authority of county commissioners to arrange for work by prisoners, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 130, clarifying the authority of county commissioners to arrange for work by prisoners.

HB 426, establishing a committee to study the rules and regulations regarding the administration of medications in long-term care facilities. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-1466s
01/09

Amendment to HB 426

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study the administration of medications and the management of personal care assistance personnel in long-term care facilities.

Amend the bill by replacing sections 1-4 with the following:

1 Purpose. The general court recognizes the need for choice in the continuum of long-term care and that residential and supported residential care facilities constitute an integral component in this continuum. The general court also recognizes that long-term care services in New Hampshire are to be predicated upon a philosophy that is cost effective, that supports and empowers the individual consumer and that prioritizes the least restrictive alternative. Therefore, since the administration of medications and the management of personal care assistance personnel is an integral factor affecting an individual's choice for care, there is hereby a study committee formed to examine the rules and regulations pertaining to the administration of medications and the management of personal care assistance personnel.

2 Committee Established. There is established a committee to study the administration of medications and the management of personal care assistance personnel in long-term care facilities.

3 Membership and Compensation.

I.(a) The members of the committee shall be as follows:

(1) Three members of the senate, appointed by the president of the senate.

(2) Three members of the house of representatives, appointed by the speaker of the house.

(b) The committee shall solicit information from the following:

- (1) The New Hampshire board of nursing.
- (2) New Hampshire Nurses Association.
- (3) The commissioner of health and human services, or designee.
- (4) New Hampshire Health Care Association.
- (5) The New Hampshire pharmacy board.
- (6) The New Hampshire Association of Residential Care Homes (NHARCH).
- (7) The New Hampshire Home Care Association.
- (8) The bureau chief of the bureau of health facilities, department of health and human services, or designee.
- (9) The New Hampshire Association of Counties.
- (10) The Alzheimer's Association, Greater New Hampshire Chapter.
- (11) A representative of a continuing care retirement community.
- (12) Any other entity or persons the committee deems relevant to its study.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

4 Duties. The committee shall study the rules and regulations regarding the administration of medications and the management of personal care assistance personnel.

SENATOR K. WHEELER: House Bill 426 establishes a committee to examine the administration of medications and the management of personal care assistance personnel in long-term care facilities. Residential and supported residential care facilities are integral parts of the continuum of long-term care, supporting and empowering the individual consumer in the least restrictive alternative while being cost effective. The administration of medications and management of personal care assistance personnel are essential to long-term care, but also are a limiting factor affecting the choice for long-term care. This committee will examine the rules and regulations pertaining to each. The Public Institutions, Health and Human Services Committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 433, relative to discharge from New Hampshire hospital. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 433 clarifies the procedure regarding absolute discharges from New Hampshire hospital. This bill will establish in statute, the current practice and clarify the procedure for absolute discharges from New Hampshire hospital. There is some ambiguity in the current law regarding these discharges. The bill clarifies the hierarchy of decision making. The bill in no way affects the procedures regarding admittance and treatment at the New Hampshire hospital. The committee recommends unanimously, ought to pass.

Adopted.

Ordered to third reading.

HB 454, relative to food service establishments. Public Institutions, Health and Human Services Committee. Vote: 6-1. Ought to pass with amendment, Senator K. Wheeler for the committee.

1997-1477s
01/08

Amendment to HB 454

Amend the bill by replacing section 2 with the following:

2 Temporary Licensure. RSA 143-A:6 is repealed and reenacted to read as follows:

143-A:6 Application; Issue; Fee.

I. Upon receipt of an application in writing from a new food service establishment or retail food store, or a food service establishment retail food store which has changed ownership or a food service establishment or retail food store which has had its previous license revoked, the commissioner shall issue a provisional license, valid for up to 90 days, if the commissioner determines that the applicant's plan for operation and facilities are sufficient under rules adopted under RSA 143-A:9.

II. Within 45 days of issuance of a provisional license issued under this section, the commissioner shall conduct an inspection. If following such inspection the commissioner determines that the applicant's operation and facilities are sufficient under rules adopted under RSA 143-A:9, the commissioner shall issue to the applicant a license valid for a time period of one year following the date of issuance of the provisional license.

III. Upon receipt of an application for renewal of a license from an existing food service establishment or retail food store, the commissioner may conduct an inspection. If the commissioner determines that the applicant's operation and facilities are sufficient under rules adopted under RSA 143-A:9, the commissioner shall issue to the applicant a new license valid for one year.

IV. Licenses and provisional licenses are not transferable.

V. The commissioner shall charge a fee for each license application processed, for each plan review conducted, and for each inspection performed; provided that the commissioner shall charge only one fee for the provisional license and the license.

AMENDED ANALYSIS

This bill changes the definition of food service establishment to include a phrase required in federal law. The bill also establishes a temporary licensure procedure for new food service establishments.

SENATOR K. WHEELER: House Bill 454 amends the definition of food service establishment to include a phrase required by federal law and allows for temporary license procedures for new food service establishments. This bill redefines food service establishment to include the phrase "in which potentially hazardous food is served." Potentially hazardous food is defined in rules right now in standards in Health and Human Services. Federal law makes this phrase a necessity. Additionally, the bill allows places serving only coffee and light refreshments and food which is not potentially hazardous to be exempt from food service licensing. An example of such a place is a Barnes and Noble Bookstore which has a coffee bar. Under current statute, they would be required to be licensed; however, they are not serving hazardous food; therefore, pose no risk to the consumer. Further, HB 454 permits the Department of Health and Human Services to issue a temporary food service license prior to the actual operation when a permanent license is given and an inspection will follow within 45 days. This would allow for a three-month provisional license to give time to see if the new establishment meets the rules before a license is issued. The amendment simply clarifies the

department's intent not to charge the establishment twice under this licensing provision. The committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 472, establishing the council for children and adolescents with chronic health conditions. Public Institutions, Health and Human Services Committee. Vote: 6-1. Ought to pass with amendment, Senator McCarley for the committee.

1997-1455s

05/02

Amendment to HB 472

Amend RSA 126-I:3 as inserted by section 2 of the bill by deleting paragraph IV and renumbering the original paragraph V to read as IV.

AMENDED ANALYSIS

This bill establishes the council for children and adolescents with chronic health conditions and their families. The members shall:

I. Serve in an advisory capacity to the department of health and human services, department of education, and insurance department for policy and program development.

II. Collaborate with the department of health and human services, department of education, and other public and private organizations state-wide to enhance community-based family supports that meet the unique needs of children and adolescents with chronic health conditions and their families.

SENATOR MCCARLEY: This bill establishes the council for children and adolescents with chronic health conditions and their families to serve in an advisory capacity to the Department of Health and Human Services, Education and Insurance for policy and program development and to collaborate with the departments and other public and private organizations statewide to enhance community-based family supports that meet the unique needs of children and adolescents with chronic health conditions. There are approximately 17,000 children in New Hampshire with special needs that could be represented by this council. This council will assist schools, the Department of Health and Human Services, Education and Insurance to research and secure grants outside the state and federal venue and obtain appropriate and effective community and family-based services and support. The diversity and severity of the conditions that these children have affect the entire family and involve not only medical issues, but school insurance and community concerns. This bill will help bring everyone to the table to serve as an important resource to those determining public policy. The Public Institutions, Health and Human Services Committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 690, establishing a long-term care institute. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator McCarley for the committee.

1997-1476s
01/08

Amendment to HB 690

Amend the bill by replacing all after section 2 with the following:

3 Repeal. RSA 126-I, relative to a long-term care institute and any pilot program established pursuant to RSA 126-I:5, II, are hereby repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2004.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a long-term care institute, the purpose of which is to educate the citizens of New Hampshire about their responsibility to provide for their long-term care and to encourage such persons to purchase long-term care insurance. Under this bill, the long-term care institute shall cease to exist on July 1, 2004.

SENATOR MCCARLEY: House Bill 690, establishing a long-term care institute for the purpose of educating the citizens of New Hampshire about their responsibility to provide for long-term care insurance. It is anticipated that this bill will lower insurance coverage rate simply by the increased number of participants who will be prepared for this need. The institute will educate the people of New Hampshire on their responsibility to provide themselves with long-term care and educate New Hampshire employers about reducing their cost to their employees of long-term care insurance, develop inexpensive long-term care insurance model for New Hampshire residents, and establish a long-term care resource center to serve as a clearing house for education and promotional materials on long-term care and long-term care insurance. Finally, perform an ongoing evaluation of efforts to achieve the institute's objectives. We need to enhance the public's understanding of long-term care insurance by increasing the availability and acceptance of such insurance coverage and develop awareness of the responsibility of individuals rather than the state to provide for their own long-term care. The bill requires no state funds but does rely on grants. The Public Institutions, Health and Human Services Committee unanimously recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 718, changing that which constitutes the practice of medicine. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment, Senator Squires for the committee.

1997-1467s
05/09

Amendment to HB 718

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The purpose of this act is to limit the performance of laser surgery to physicians, dentists, and podiatrists.

2 Practice of Medicine; Definition Changed; "Surgery" Defined; "Laser" Defined. Amend RSA 329:1 to read as follows:

329:1 Practice. Any person shall be regarded as practicing medicine under the meaning of this chapter who shall diagnose, ~~[operate on,]~~, *treat, perform surgery, or* prescribe ~~[for or otherwise treat any]~~ *any*

treatment of medicine for any disease or human ailment[~~whether physical or mental~~]. "Surgery" means any procedure, including but not limited to laser, in which human tissue is cut, shaped, burned, vaporized, or otherwise structurally altered, except that this section shall not apply to any person to whom authority is given by any other statute to perform acts which might otherwise be deemed the practice of medicine. "Laser" means light amplification by stimulated emission of radiation.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

- (1) Modifies that which constitutes the practice of medicine.
- (2) Defines the term "surgery."
- (3) Defines the term "laser."

SENATOR SQUIRES: This bill is one of, what I think, will be a number of bills as new technologies come into health care. As those technologies become easier and easier to use, more and more people wish to employ them. At issue here, is the laser, which is not without hazards and certainly requires some special training. In order to deal with this issue, who can use the laser in medical work, HB 718 defines the use of a laser for surgery as being an act that constitutes the practice of medicine. Further, this bill holds the persons who hold themselves out to the public, using certain titles, are deemed to be in the practice of medicine. The bill updates the current definition of surgery and includes the use of laser surgery as the practice of medicine, insuring that lasers are not inappropriately used by people not trained to operate them. The bill is not trying to stop anyone from using lasers, just attempting to protect the consumer. Laser is defined. I might also say that great care was taken to protect the dentists who use lasers and podiatrists who are dealt with in the bill. The Public Institutions, Health and Human Services recommends passage of the bill. Thank you.

Amendment adopted.

Ordered to third reading.

HJR 1, urging the preservation and continued development of community services to people with developmental disabilities and their families. Public Institutions, Health and Human Services Committee. Vote: 6-1. Ought to pass with amendment, Senator McCarley for the committee.

1997-1468s

01/08

Amendment to HJR 1

Amend the resolution by replacing the fourth paragraph after the title with the following:

Whereas, the state of New Hampshire closed the Laconia State School in January, 1982 with the pledge that the state would continue to develop and maintain community-based services for persons with developmental disabilities and their families who depend on such services; and

SENATOR MCCARLEY: House Joint Resolution 1, urging the preservation and continued development of community services to people with developmental disabilities and their families. TAPE INAUDIBLE.

SENATOR K. WHEELER: A board of trustees living up to their responsibilities, but also, to the state stepping in and saying that they would not re-credit us unless we put in some new policies. So I do not, from my experience... the area agency system is working well and is the best way

to serve the families of our state who are feeling very threatened by the idea that they might lose their area agency which is there to help address the needs of the families and clients in this very vulnerable segment of our population. So I urge your support of this resolution.

SENATOR HOLLINGWORTH: I think that Senator Wheeler said it all for me, I just wanted to say "thank you, Katie."

SENATOR GORDON: Very briefly, I come from an area where there are two area agencies and both of them do a superb job. The issue here isn't just saving money. I know that it is important for us to operate efficiently and to be cost effective and get the most that we can for the money that we are putting into the system, but sometimes there is a tradeoff and it is a tradeoff between advocacy and financial efficiency. The agencies that operate in my area don't just provide services, they provide advocacy, and that is something that is worth a great deal of money over and above just a simple issue of how much do we spend. I support the resolution and hope that everyone else will.

Amendment adopted.

Ordered to third reading.

HB 246, making technical corrections to the business profit ; tax, interest and dividends tax, and the legacies and successions tax and setting the biennial rate of the medicaid enhancement tax at 6 percent. Ways and Means Committee. Vote: 6-0. Ought to pass, Senator F. King for the committee.

SENATOR F. KING: House Bill 246 making technical corrections to the business profits tax, interest and dividends tax and the legacies and successions tax and setting the biennial rate of the medicaid enhancement tax at 6 percent. Resetting the Medicaid enhancement tax rate at 6 percent for the biennium ending June 30, 1999 is not intended to impair the ability of hospitals to provide for indigent care; rather, this action assumes that a revised formula for distributing Medicaid disproportionate share funds, which is based on net patient revenues is permissible. This will be adopted by the Department of Health and Human Services and will enhance hospitals capacity to provide free or reduced price services. If the Medicaid enhancement tax serves to eliminate hospitals ability to provide indigent care, and the hospital brings the challenge to the tax payers, it is the intent of the legislature, that the challenge be proportionately resolved on an administrative basis with the recommendation of the attorney general. The committee on Ways and Means recommends this bill as ought to pass.

SENATOR J. KING: Where in the bill, Senator King, is the place where it talks about the six percent Medicaid thing?

SENATOR F. KING: It is on the second page of the bill. Lines 31-34.

Adopted.

Ordered to third reading.

HB 636-L, relative to facilitating the transfer of contaminated property acquired by a municipality to a buyer eligible to participate in the brownfields program. Ways and Means Committee. Vote: 4-0. Ought to pass, Senator Danaïs for the committee.

SENATOR DANAIS: This bill clarifies the municipalities' ability to acquire environmentally contaminated property without liability for the contamination in order to convey the property to an eligible person in the Brownsfield Program and allows the municipalities to grant tax

abatements to facilitate the transfer of the property. There was no opposition to this bill at the committee hearing. The consensus among those testifying, was that the legislation is badly needed in order to provide municipalities dealing with these contaminated sites the ability to negotiate a financial arrangement. It would provide the tools necessary for the needed flexibility to remediate these properties back to productive use and onto the tax roll. The committee on Ways and Means recommends this bill ought to pass.

Adopted.

Ordered to third reading.

RECONSIDERATION

Senator Hollingworth having voted with the prevailing side, moved reconsideration on **HB 609**, enacting the Uniform Interstate Family Support Act (UIFSA) and relative to child support, whereby we ordered it to third reading.

HB 609, enacting the Uniform Interstate Family Support Act (UIFSA) and relative to child support.

Adopted.

MOTION TO RECOMMIT

Senator Hollingworth moved to recommit to the Finance Committee.

SENATOR D. WHEELER: Senator Hollingworth, could you tell us why you need this to go back to the Finance Committee and what the possible changes might be?

SENATOR HOLLINGWORTH: Yes. I received a letter from the Department of Health and Human Services that a drafting error has occurred the result of the bill passing the way that it is would cost the state \$186 million.

SENATOR D. WHEELER: Oh. Thank you, Senator.

Adopted.

Referred to the Finance Committee (Rule #24).

TAKEN OFF THE TABLE

Senator Barnes moved to have **HB 130**, clarifying the authority of county commissioners to arrange for work by prisoners, taken off the table.

Adopted.

HB 130, clarifying the authority of county commissioners to arrange for work by prisoners.

Senator Whipple moved to rerefer.

SENATOR WHIPPLE: This bill was just brought to my attention. If you look at it, it seems to be harmless, but once you really look at it, what it does, is to authorize county prisoners not only work for cities and towns, which I believe they should work for, as cities and towns are paying for the upkeep and the costs of these correctional facilities and the benefit of the workers work goes to the taxpayers, because otherwise they would have to hire someone else to do it. I have no problem with that. The problem that I have is, when it goes to nonprofits. The reason for that it is, nonprofits don't pay property taxes unless they are forced to and even when you try to get them to, most of them won't do it. So whereby

they do little or no good for the community in some cases, in some cases they do. There are a lot of nonprofits who are very good. But when a nonprofit doesn't pay taxes, that means they are depriving students and children of education, yet they claim they are charitable, yet they won't help out and educate our children. The question that I have is, do you want these prisoners to go to work for nonprofits and have the benefit of the work that they do in many cases, flow back to the upper management of that nonprofit in the form of the higher salaries, sometimes exorbitant salaries for what they can do? I would say that if we rerefer this that we can study this again, it would be appropriate for them to work there because the benefit would be to the community at large. But today, nonprofits and charitable organizations have a very weak definition. One dollar, Mr. President. One dollar will make you a charitable organization and you will never have to pay taxes again.

SENATOR BLAISDELL: Don't tell him that, he will do it.

SENATOR RUSSMAN: Senator Whipple, if we were to put that on the table and have an amendment drawn up for next week, eliminating nonprofits, it would be just the municipalities, would you go along with that?

SENATOR WHIPPLE: Yes, I would, Senator Russman.

Senator Barnes moved to have **HB 130**, clarifying the authority of county commissioners to arrange for work by prisoners, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 130, clarifying the authority of county commissioners to arrange for work by prisoners.

1997-0010-EBA

01/02

Enrolled Bill Amendment to HB 483

The Committee on Enrolled Bills to which was referred HB 483

AN ACT relative to regulation of securities.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 483

This amendment makes a contingent amendment to RSA 421-B:11, II to reflect the changes made by HB 650.

Enrolled Bill Amendment to HB 483

Amend the bill by replacing all after section 20 with the following:
21 Securities Registration. The introductory paragraph of RSA 421-B:11, II(a) is repealed and reenacted to read as follows:

II.(a) Before the secretary of state may accept (1) articles of incorporation for a new corporation under RSA 293-A or an application for a certificate of authority for a foreign corporation under RSA 293-A, (2) a certificate of limited partnership for a new limited partnership or an application for registration of a foreign limited partnership under RSA 304-B, (3) a certificate of formation for a new limited liability company or an application for registration as a foreign limited liability company under RSA 304-C, or (4) an application for registration of a registered limited liability partnership or a notice of registration of a foreign registered limited liability partnership under RSA 304-A, the following requirements shall be met:

22 Statement to be Signed. RSA 421-B:11, II(a)(2) is repealed and re-enacted to read as follows:

(2) The statement shall be signed by the incorporators of a corporation to be formed, by an executive officer of an existing corporation, by the general partners or intended general partners if a limited partnership, by one or more members or managers authorized to do so if a limited liability company, or by one or more partners authorized to do so if a registered limited liability partnership or foreign registered limited liability partnership.

23 Contingency. If HB 650 of the 1997 regular session becomes law, sections 21 and 22 of this act shall take effect at 12:01 a.m. on the effective date of section 40 of HB 650. If HB 650 does not become law, sections 21 and 22 of this act shall not take effect.

24 Effective Date.

I. Sections 21 and 22 shall take effect as provided in section 23 of this act.

II. The remainder of this act shall take effect upon its passage.

Senator Barnes moved adoption.

Adopted.

LATE SESSION

SENATOR BARNES (RULE #44): I just wanted to thank this entire body for the bipartisan support we got on HJR 6, because this lovely lady, Marilla Marks Ricker was a Republican and you Democrats were wonderful to go along on a unanimous vote to send that on to the historical committee. Bipartisanship at its best.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all titles be read a third time and adopted at the present time, and that when we adjourn, we adjourn until Wednesday, May 28, 1997 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 52, authorizing the assignment of superior court judges to hear cases in the district court.

HB 129, relative to the definition of emergency services for health care insurance purposes.

HB 154-L, defining "legal resident" for purposes of school attendance.

HB 229-FN, establishing a reading recovery training program.

HB 243, relative to criminal penalties and license revocation following a conviction for shooting and wounding or killing a human being while hunting.

HB 246, making technical corrections to the business profits tax, interest and dividends tax, and the legacies and successions tax and setting the biennial rate of the medicaid enhancement tax at 6 percent.

HB 300, establishing a commission to study judicial salaries and retirement benefits.

HB 318, making technical changes to the provisions relating to school administrative units.

HB 389, relative to the water protection assistance program within the office of state planning.

HB 416, relative to sentencing for juvenile delinquents.

HB 424, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years.

HB 426, establishing a committee to study the rules and regulations regarding the administration of medications in long-term care facilities.

HB 430, relative to registration of political committees and to political expenditures and contributions.

HB 431, relative to the appointment of attorneys and guardians ad litem, and eliminating certain de novo hearings under certain laws related to child protection.

HB 433, relative to discharge from New Hampshire hospital.

HB 442, requiring insurers to cover certain costs associated with reconstructive surgery after a mastectomy.

HB 452, establishing a legislative oversight committee on telecommunications restructuring and relative to approval by the public utilities commission of tariffs for new telephone services.

HB 454, relative to food service establishments.

HB 468-L, eliminating a requirement that registers of deeds keep original copies of officers' returns of attachments and writs of execution on file permanently.

HB 472, establishing the council for children and adolescents with chronic health conditions.

HB 536, requiring certain dam owners to develop emergency action plans, prohibiting the construction of any dam without a permit and clarifying the process for issuing orders for dam repair.

HB 554, relative to damages in suits brought by administrators of an estate.

HB 575, authorizing the commissioner of the department of environmental services to accept environmental standards developed by the International Standards Organization (ISO) in place of certain permits and certification requirements.

HB 584-L, relative to the duties of school nurses.

HB 636-L, relative to facilitating the transfer of contaminated property acquired by a municipality to a buyer eligible to participate in the brownfields program.

HB 690, establishing a long-term care institute.

HB 695, establishing a committee to study the educational requirements of student drivers.

HB 711, relative to post-termination commissions.

HB 718, changing that which constitutes the practice of medicine.

HJR 1, urging the preservation and continued development of community services to people with developmental disabilities and their families.

HJR 6, authorizing the joint legislative historical committee to acquire and cause to be displayed a portrait of suffragist Marilla Marks Ricker.

In recess.

Out of recess.

RECONSIDERATION

Senator Roberge having voted with the prevailing side, moved reconsideration on **HB 300**, establishing a commission to study judicial salaries and retirement benefits, whereby we ordered it to third reading.

Motion failed.

SENATOR HOLLINGWORTH (RULE #44): Senator Barnes, not only were we bipartisan in our votes, but many of those people listed as sponsors on there were also Democrats.

RESOLUTION

Senator J. King moved that the Senate adjourned until Wednesday, May 28, 1997 at 10:00 a.m.

Adopted.

Adjournment.

May 28, 1997

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

Its budget time - and since they and she don't agree with you, that means it is also compromise time. In the world of political reality, compromises are one of those unpleasant necessities that preserves you, on the one hand, from the grave of producing nothing, but exposes you, on the other hand, to the risk of trading in your deepest convictions in some cases when nothing would be better than something. Remember that proverb which says, "It is better to lose the saddle than the horse." Your leadership for us in your conversations with the House and the Governor needs to be finding that obscure path that will enable you and them and us to be willing to give up the saddle of our egos without sacrificing the horse we need to ride on.

O Lord of the middle and of both ends, help us to realize that You place yourself all over the map of our lives and our opinions and our convictions, and that You never restrict Yourself to one end or the other, even when it comes to the budget. Help these twenty-four to be like You. Make them wise enough and persistent enough, to be able to look across the whole landscape of the diverse opinions that confront them, and help them to make their compromises based on courage and not convenience, on fortitude and not fatigue and on people and not politics. Amen

Senator Russman led the Pledge of Allegiance.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 171, repealing the citizens advisory committee which advises the pesticide control board.

HB 208, relative to the status of roads laid out by the courts of common pleas or the county commissioners.

HB 264, relative to technical committees advising the director of the office of information technology management on technical issues.

HB 269, relative to the compensation of sweepstakes commissioners who are members of a multi-state lottery commission.

HB 342, relative to the payment of recording fees for mortgage discharges and relative to notification of the discharge to the payor of the final payment in satisfaction of the mortgage.

HB 348, allowing the state fire marshal to investigate a building collapse or release of carbon monoxide.

HB 368, establishing the honorary position of artist laureate of the state of New Hampshire.

HB 375, relative to the statement which must be signed by applicants for notary public or justice of the peace.

HB 402, relative to the use of revenues of the fish and game department.

HB 624, subjecting certain payments made to public employees upon resignation, discharge, or retirement to the right-to-know law.

HB 687, establishing an Alan B. Shepard park commission.

HB 714, deleting certain duties of the secretary of state relative to the state treasurer's insurance bond and accounts of bonds issued by the state treasurer.

INTRODUCTION OF GUESTS

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 257, offering priority to qualified veterans for participation in training programs funded by the state or federal government.

HB 285, relative to the official name of the "Old Man of the Mountain."

HB 501, including blindness in the special education provisions, and allowing attorneys to act as neutrals in special education dispute resolution.

HB 652, establishing a house committee to study certification of police and fire dispatchers.

HB 653, relative to address numbers on streets and highways and relative to penalties for violations of certain planning and zoning laws.

HB 671, establishing a committee to study the organization, structure, and administration of the department of fish and game, and making an appropriation therefor.

HB 797, requiring emergency vehicles to stop for school buses, and requiring the use of both audible and visual emergency signals, in certain circumstances.

HB 805, relative to homestead rights and revocable trusts.

Senator Barnes moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 102, relative to school employee background investigations.

HB 249, clarifying the authority of local police officers to serve cease and desist orders against planning and zoning violations.

HB 399, changing the name of the optional property tax exemption for the totally and permanently disabled.

HJR 5, urging the United States Congress and the United States Environmental Protection Agency to make certain changes in the Clean Air Act which would result in more cost effective air pollutant emission reductions.

SB 34, repealing laws relative to abortion.

SB 85, making technical changes in laws relative to the probate courts. Senator Barnes moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 18, relative to the sale of certain items at flea markets.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 18, relative to the sale of certain items at flea markets.

Senator Roberge moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Patenaude, McCarley, Roberge

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 35, including "accessibility lift" within the definition of "elevator".

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 35, including "accessibility lift" within the definition of "elevator".

Senator J. King moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: J. King, Roberge, Rubens

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 36, relative to incarcerated convicted persons receiving workers' compensation payments.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 36, relative to incarcerated convicted persons receiving workers' compensation payments.

Senator Danais moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Danais, Francoeur, K. Wheeler

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 109, relative to the official ballot voting option.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 109, relative to the official ballot voting option.

Senator Roberge moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Rubens, Squires, Whipple

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 178, regulating managed care systems of health care delivery.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 178, regulating managed care systems of health care delivery.

Senator Danais moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Danais, Squires, Blaisdell

RECONSIDERATION

Senator Danais having voted with the prevailing side, moved reconsideration on **SB 178**, regulating managed care systems of health care delivery, whereby we moved non concurrence.

Adopted.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 178, regulating managed care systems of health care delivery.

Senator Danais moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 182, relative to the administration, operation, and maintenance of the New Hampshire state veterans cemetery.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 182, relative to the administration, operation, and maintenance of the New Hampshire state veterans cemetery.

Senator Roberge moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Barnes, Blaisdell, Fraser

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 29, establishing a pet overpopulation trust.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 29, establishing a pet overpopulation trust.

Senator Cohen moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 54, relative to gainful occupation of disability beneficiaries in the New Hampshire retirement system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 54, relative to gainful occupation of disability beneficiaries in the New Hampshire retirement system.

Senator Danaïs moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 70, establishing a committee to examine campaign finance reform.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 70, establishing a committee to examine campaign finance reform.

Senator Roberge moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 71, establishing a committee to identify and study statutes and ordinances in cases in which the penalty is not specified by statutes and clarifying the right to a jury trial in cases in which a civil penalty is imposed for a violation.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 71, establishing a committee to identify and study statutes and ordinances in cases in which the penalty is not specified by statutes and clarifying the right to a jury trial in cases in which a civil penalty is imposed for a violation.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 101, requiring certain hospitals to file certain forms with the director of charitable trusts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 101, requiring certain hospitals to file certain forms with the director of charitable trusts.

Senator J. King moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 104, relative to rate setting for purposes of automobile insurance and homeowners insurance.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 104, relative to rate setting for purposes of automobile insurance and homeowners insurance.

Senator Danais moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 116, relative to the regulation of rural electric cooperatives by the public utilities commission.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 116, relative to the regulation of rural electric cooperatives by the public utilities commission.

Senator J. King moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 130, relative to the portability, availability, and renewability of health coverage.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 130, relative to the portability, availability, and renewability of health coverage.

Senator Danais moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 165, relative to Medicare and health maintenance organizations and small employer and individual insurance.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 165, relative to Medicare and health maintenance organizations and small employer and individual insurance.

Senator Danais moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 177, relative to the liability of prospective adoptive parents for court ordered services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 177, relative to the liability of prospective adoptive parents for court ordered services.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 39, relative to the delivery of bank products and services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 39, relative to the delivery of bank products and services.

Senator Fraser moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 135, adopting the uniform "transfer on death" security registration act.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 135, adopting the uniform "transfer on death" security registration act.

Senator Fraser moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 139, authorizing banks to invest trust funds in bank-affiliated investments.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 139, authorizing banks to invest trust funds in bank-affiliated investments.

Senator Fraser moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 122, establishing a commission to examine the effects of the managed care industry on those belonging to the disabled and the mental health communities.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 122, establishing a commission to examine the effects of the managed care industry on those belonging to the disabled and the mental health communities.

Senator Danais moved to non concur and request a Committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Squires, Francoeur, Hollingworth

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 149, prohibiting state agencies managing federal programs from exceeding their statutory authority in placing restrictions on activities of the private sector.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 149, prohibiting state agencies managing federal programs from exceeding their statutory authority in placing restrictions on activities of the private sector.

Senator Larsen moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Podles, F. King, Larsen

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 154, relative to charter schools.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 154, relative to charter schools.

Senator Rubens moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: Rubens, Johnson, Whipple

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 213-FN-A, establishing a fund for loans to rehabilitate class III railroads and cog railroads and making an appropriation therefor.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 213-FN-A, establishing a fund for loans to rehabilitate class III railroads and cog railroads and making an appropriation therefor.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 194, relative to the age of child day care providers homes, and allowing school districts to transport school-age children between schools and before- and after-school programs.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 194, relative to the age of child day care providers homes, and allowing school districts to transport school-age children between schools and before- and after-school programs.

Senator D. Wheeler moved to non concur and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said committee of conference:

SENATORS: D. Wheeler, Squires, McCarley

COMMITTEE REPORTS

HB 142, relative to false residency forms and automobile insurance. Insurance Committee. Vote: 8-0. Ought to pass, Senator Danais for the committee.

